

This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

## Usage guidelines

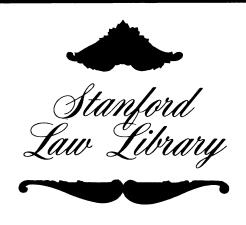
Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + Refrain from automated querying Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

#### **About Google Book Search**

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at http://books.google.com/



Given by
Title Insurance
and
Trust Company
Foundation

JSN LBR GHBY

• • · -

## BOURDIN'S, MARCHA

EXPOSITION OF

# THE LAND TAX,

INCLUDING

THE LATEST JUDICIAL DECISIONS, AND THE CHANGES IN THE LAW EFFECTED BY THE TAXES MANAGEMENT ACT, AND BY THE ACT CONVERTING THE THREE PER CENT.

INTO TWO-AND-THREE-QUARTERS PER CENT. STOCK, WITH OTHER

ADDITIONAL MATTER.

#### FOURTH EDITION

WITH A NEW AND EXHAUSTIVE INDEX

BY THE LATE

FREDERICK HUMPHREYS,

AND

DIGESTS OF CASES DECIDED IN THE COURTS
BY

CHARLES C. ATCHISON,
DEPUTY REGISTRAR OF LAND TAX.

#### LONDON:

STEVENS AND SONS, LIMITED,
119 & 120, CHANCERY LANE,
2nd Publishers and Booksellers.
1894.

## LONDON:

PRINTED BY C. F. ROWORTH, GREAT NEW STREET, FETTER LANE.

## PREFACE TO NEW EDITION.

Since the last revision of this Work, in the year 1885, the most important change in the Law affecting Land Tax redemption has been the passing of the Act 52 & 53 Vict. c. 42, consequent on the conversion of the £3 per centum Consolidated and Reduced Bank Annuities into £2 $\frac{3}{4}$  per centum Consolidated Stock. Since the passing of this Act—the effect of which was to increase the cost of redemption by one-eleventh—the number of Contracts annually entered into has been slightly in excess of former years, while the amount of Land Tax annually redeemed has fallen below the average.

A fully extended Index—the need of which had long been felt—has now been added, together with Tables for computing the Consideration Money payable for the redemption of Land Tax.

F. H.

October, 1893.

In this Edition several important cases—the leading features of which may be briefly indicated—appear for the first time. Charleton v. Alway (No. 1), deals with the nullity of an assessment made upon redeemed property. Carr v. Fowle (No. 8), demonstrates the exemption of the New rent-charge substituted in 1886 for the Old Extraordinary Tithe. The Metropolitan Railway Company v. Fowler and others (No. 9), decides the liability of Railway Tunnels. Regina v. The Land Tax Commissioners for the Hundred of Ivychurch, Kent (No. 10),-heard on the 19th February 1894, and not yet published—has a double significance:—First, as illustrating the finality of the decision of Commissioners who have heard and determined an Appeal as to the quantum of an assessment:—Secondly, by reason of the opinion expressed by the Judges that by "annual value," for the purposes of Land Tax assessment, is meant the "net" and not the "gross." The Digest, which precedes the Judgment in each of the cases, is entirely a new departure, and will, it is hoped, render them more generally serviceable. C. C. A.

Inland Revenue Office, Somerset House, London, April, 1894.

. . . . 

## PREFACE TO FORMER EDITIONS.

THE object of the present work is to give an abstract of the Statutes which regulate the imposition and redemption of the Land Tax, so far as its redemption has operated in creating charges upon land. The provisions for the assessment and collection of the tax are contained in numerous Acts, which are mainly repealed or obsolete, thus rendering any investigation of the existing law a work of trouble and uncertainty, even to members of the legal profession. From similar causes much difficulty is experienced in ascertaining the precise effect of many of the clauses of the Acts under which a large proportion of the Land Tax It may readily be understood that a has been redeemed. measure of such magnitude, and of so complex a character as the redemption of the Land Tax, required at the outset repeated amendment to remove the difficulties which arose in its practical administration. Many of the provisions of the Amending Acts having been framed to meet exceptional cases, and others for purely administrative purposes, a minute analysis of the whole would tend rather to obscure than elucidate the subject. The general effect of them is, however, shown, and all the provisions bearing upon the rights acquired by redemption, have been fully explained.

			-
			;
			,
			p
			1
•			à
			4
			;
			1
_			i

## ( vii )

## CONTENTS.

	PAGI
LIST OF DIGESTS AND JUDGMENTS	vii
LIST OF CASES	iz
List of Abbreviations	xi
INTRODUCTION	1
PART I.—STATUTES	20
II.—Property chargeable, and exempt	21
· III.—Commissioners	36
IV.—Assessment	39
V.—Collection	46
VI.—Double Land Tax	51
VII.—REDEMPTION	59
VIII.—Progress of Redemption	84
IX.—LAND TAX IN SCOTLAND	96
APPENDIX:	
Instructions for the guidance of intending Redemptioners	107
Forms	109
Instructions for the guidance of Clerks to Commissioners in the redemption of Land Tax	121
Digests, and Judgments in full of the most important	
Cases relating to Land Tax generally	196

## viii

## CONTENTS.

LIST OF	DIGESTS, AND JUDGMENTS	GIVEN	IN	FULL	IM	THE	;
APPE	NDIX:						PAGE
No.	. 1.—Charleton v. Alway	-	-	-	•	-	126
,,	2.—R. v. Tower Commission	ners -		-			129
,,	3.—Colchester $v$ . Kewney	-	-	-	•	-	141
,,	4.—Hodgson $v$ . Pearson	-		-			150
,,	5.—R. v. Morpeth Commiss	ioners	-	-	•	-	159
,,	6.—Cox v. Rabbits -	-		-			162
,,	7.—Simpkin v. Robinson	-	-	-	•	-	166
,,	8.—Carr v. Fowle -	-		-			172
,,	9.—The Metropolitan Railv	vay Co.	v. ]	Fowler	•	-	175
,,	10.—R. v. Ivychurch Comm	issioner	8	-			192
			-				
TATE OF THE	-					105	000

## ALPHABETICAL LIST

#### OF THE

## NAMES OF THE CASES.

	PAGE
Adam v. New River Company	23
Allen v. Sharp	
All Souls College (Oxford) v. Costar	29
Amfield v. White	
Andrew v. Hancock	
Astle v. Grant	
Attorney-General v. Hill	
", ", v. L. T. Commissioners (Haytor Div.)	
Atwood v. Lamprey	
D	•
Baker v. Greenhill	
Beadon v. King	
Blandford v. Marlborough	
Boehm v. Wood	
Buchanan v. Poppleton	
Bulkley v. Hope	71
Carr. v. Fowle (Case No. 8)	, 172
Charleton v. Alway (Case No. 1)	, 126
Chelsea Waterworks v. Bowley	
Christ's Hospital (Governors) v. Harrild	. 26
Colchester (Lord) v. Kewney (Case No. 3)	
Cooch v. Walden	
Cousins v. Harriss	. 74
Cox v. Rabbits (Case No. 6)	
Dos dom Museum a Buidana	75

## NAMES OF CASES.

East v. Thornbury	23
Foss v. Racine	47
Gibbs v. Stead	46
Glatton Land Tax, In re	43
	126
Graham v. Tate	26
Gruffly v. Pindar	48
Harrison v. Bulcock	30
Hodgson v. Pearson (Case No. 4)	150
Hyde v. Hill	26
Kilderbee v. Ambrose	70
Layfield v. Cooper	48
Manning v. Lunn	25
	175
Mitchell v. Charing Cross Bridge Company	22
Moody v. Dean and Chapter of Wells28,	77
Neam v. Moorsom	70
Nichols v. Leeson	23
Northwick (Lord), Ex parte	75
	166
Pigott v. Pigott	68
Queen—See REGINA (Reg.).	
Reg. v. Commissioners of Ivychurch, Kent (Case No. 10)24,	192
,, ,, Morpeth Division (Case No. 5)24, 30, 1	
,, ,, Tower Division (Case No. 2)24,	
Rex v. Cook	29
,, v. Mitcham	27
,, v. Scott	26
Robinson v. Stephens	23

NAMES OF CASES.	i
PAGI	_
Sanderson v. Hanson	5
Simpkin v. Robinson (Case No. 7)	6
Smith v. Humble	6
Spragg v. Hammond 2	5
Vauxhall Bridge Company v. Sawyer 2	2
Ward v. Const	5
Ware v. Polhill	0
Waterloo Bridge Company v. Cull	9
Watson v. Atkins	
Whidborne v. Ecclesiastical Commissioners 76	6
Whitfield v. Brandwood 20	6
Williams v. Steward	8
Yaw v. Lemon	6

## LIST OF ABBREVIATIONS.

Ad. & E. .. Adolphus and Ellis. App. Cas. . . Appeal Cases. Atkyn's Reports—Chancery.
Barnewall and Adolphus—King's Bench.
Barnewall and Alderson—King's Bench.
Barnewall and Cresswell—King's Bench. Atk. B. & Adol... B. & Ald. .. B. & C<u>.</u> .... Henry Blackstone's Reports.

Bosanquet and Puller—Common Pleas.

Broderip and Bingham—Common Pleas. Blac. H. ... B. & P. .... B. & B. .... Cald. ..... Caldecott's Settlement Cases—King's Bench. C. B. ..... Common Bench Reports—Common Pleas. C. & K.... Carrington and Kirwan—Nisi Prius. C. & P. .... Carrington and Payne-Nisi Prius. Coke upon Littleton.
Douglas—King's Bench.
Ellis and Blackburn—Queen's Bench. Co. Litt. .. Doug<u>l.</u> .... E. & B. . . . . Eq. Rep. .. Equity Reports—Chancery Exchequer Reports by Welsby, Hurlstone, and Gordon. Exch..... G. & D..... Gale and Davison-Exchequer. Hare ..... H. & H.... Hare's Reports-Chancery. Horn and Hurlstone-Exchequer. H. & N.... Hurlstone and Norman—Exchequer. Jur. ..... Kay & J. .. Law Rep. .. Jurist—All the Courts. Kay and Johnson -V.-C. Wood. Law Reports—All the Courts. Law Journal Reports—All the Courts. Law Times Reports—All the Courts. Maule and Selwyn—King's Bench. L. J. ..... L. T. ..... M. & S.... M. & <u>R.</u> ... Manning and Ryland—King's Bench. M. & W. .. Meeson and Welsby—Exchequer. Mer. ..... Merivale—Chancery. Moore ..... J. B. Moore—Common Pleas. Price's Reports—Exchequer. Ryan and Moody—Nisi Prius. Scott's New Reports—Common Pleas. Stark. ..... Starkie—Nisi Prius. T. R. . . . . . . . Term Reports-King's Bench-Durnford and East. Turner and Russell-Chancery. T. & R. .... Vesey's Reports—Chancery.
Wilson—King's Bench.
Younge and Collyer—Exchequer, Equity. Ves. .....  $\mathbf{W}$ ils. . . . . . . Y. & C. ....

## INTRODUCTION.

"The origin of Land Taxes in this country," says Sir John Sinclair, in his History of the Public Revenue, "may be traced to the duty called escutage or scutage, which resulted from the feudal system." This duty appears to have been first levied in the fifth year of the reign of Henry II., and was a pecuniary satisfaction in lieu of Knight service, required to be rendered by the holder of a certain quantity of land, denominated a Knight's fee (a). Before this time, however, a tax was

(a) Opinions differ concerning the extent of land comprised in a Knight's fee (feedum militare), it being estimated by some writers to comprehend five hydes of land, while others incline to consider it as amounting to twelve plough-lands, a plough-land being as much land as one plough could plough in a year. In the reign of William I., these Knight's fees appear to have numbered 60,215, and the holders were bound to attend their lords to the wars at their own expense, for forty days in every year, if called upon, which attendance was their reditus or return for the land they held. Those who held only half a Knight's fee were only bound to attend twenty days, and so on in proportion. After a time, instead of attending in person, the holders of these Knight's fees contrived to get their service commuted for a certain sum of money, which payment was called scutagium, or shield-money; and, upon this composition for military services becoming general, regular assess-

ľ

(450)

occasionally levied on land by royal authority. William I. imposed a tax varying from 1s. to 6s. upon every hyde of land (b); which tax was called Danegeld, from its being raised to prepare against a pretended attack of the Danes. In the reign of William II. an annual tax of twelvepence was assessed upon each hyde of land, producing about 15,000l.; and in the same reign a tax of 4s. per hyde of land was also raised, not excepting church lands (c). Henry I., upon the marriage of his daughter, in the eighth year of his reign, received 3s. upon every hyde of land (d). But the levying of taxes of this description, and especially of the scutages, becoming most oppressive from the arbitrary manner in which they were exacted, a stipulation was introduced into Magna Charta (c. 12), that no scutage should be imposed without the consent of the Common Council of the realm; and by 25 Edw. I. cc. 5 and 6, and subsequent statutes, it was provided that the King should take no aids, tasks, talliage, or tax, but by the common consent of the great men and Commons in Parliament.

The taxes occasionally raised specifically upon land, as well as the scutages, &c., merged at length into the tax called the subsidy, introduced in the reign of Richard II.

ments under the name of scutage soon followed. Originally, the tax varied from one to two marks per Knight's fee, but in the reign of Edward I., each Knight's fee paid a scutage of 40s.

(b) A hyde of land is said to have generally consisted of 100 or 120 acres. (Brady, Hist. of Eng.)

(d) Rudborne's Parl. Hist., p. 257.

<sup>(</sup>c) See History of the Exchequer, by Madox, who adds, "whilst it was collecting, the Church opposed, claiming its exemption, but could not prevail."

This was a tax on all persons in respect of their reputed estates after the nominal value of 4s. in the pound for lands, and 2s. 8d. for goods; whilst aliens were to contribute in double proportion. From the time of Henry II., tenths and fifteenths were also granted by Parliament, which were temporary aids issuing out of personal property, being the real tenth or fifteenth part of all the moveables belonging to the subject. These were first levied by assessments made whenever a fresh aid was granted; but in 8th Edward III., a valuation was made throughout England of the fifteenth part of every township, &c., and the rate recorded in the Exchequer—the amount in the whole being 29,000l. (e). In all subsequent grants of fifteenths, this sum was taken as a basis of assessment; so that, owing to the alteration in value of land and money, it was necessary in later times, in order to raise the supply required, to depart from the ancient rule of granting only one subsidy and two fifteenths. The first occasion upon which this rule was broken through was at the time of the Spanish Invasion in 1588, when the Parliament granted to Queen Elizabeth two subsidies and four fifteenths, and under Charles I. a still larger number was voted (f).

The subsidy being also assessed upon an early valuation, the rate of repartition became almost nominal; for from the causes previously stated, a lay subsidy appears never to have exceeded 70,000*l*., nor a clerical subsidy, including

<sup>(</sup>e) 1 Sincl. 44.

<sup>(</sup>f) In 1640, twelve subsidies were estimated at about 600,000%.

the monasteries, 20,000*l*. The estates of the clergy were, until 15 Car. II. c. 10, assessed by their own Convocation, after the rate of 4s. in the pound, according to the valuation of their livings in the King's books.

These subsidies and fifteenths continued to be granted until the outbreak of the civil wars, at which period the Long Parliament, in order to provide for the subsistence of their forces, levied monthly assessments according to certain fixed rates. This system was continued under the Commonwealth; when a twelvemonth's rate was fixed at 840,000*l*., or 70,000*l*. a month, for England; 144,000*l*., or 12,000*l*. a month, for Scotland; and 216,000*l*., or 18,000*l*. a month, for Ireland—making a total of 1,200,000*l*. These assessments were levied by a uniform rate on the income from real property, and on the estimated annual value of personalty; that is, 20*l*. of personalty, or 1*l*. the annual value thereof at 5 per cent., was rated exactly the same as 1*l*. of income from realty.

From this time, periodical assessments were made upon the above principle, and the sums to be levied were fixed according to the requirements of the State (g). Such

<sup>(</sup>g) Dr. Davenant, writing in 1695, observes, in his "Essay on Ways and Means," that the first attempt of reducing assessments to some equality was made in the year 1660. The House of Commons, as may be seen from their Journals [Vol. VIII. p. 178], had then in debate the settling 100,000l. per annum in compensation of the Court of Wards and Liveries, and a committee was ordered to frame and bring in an equal apportionment of the said sum upon all the counties of England, which was done accordingly, and delivered to the House November the 8th, 1660, and is as followeth:—

assessments were, in substance, the same as those raised ever since the reign of William and Mary under the name

Yorkshire:	£	£		£
West Riding	2,520	1	Warwick	1,800
North Riding			Worcester	1,800
East Riding	•		Bedford	1,400
•	·	5,800	Stafford	1,400
Devon		5,000	Nottingham	1,400
Essex		4,800	Derby	1,400
Kent		4,800	Lancashire	1,600
Suffolk		4,800	Cheshire	1,400
Norfolk		4,800	Rutland	380
Somerset		4,000	Huntingdon	900
Bristol (City)		250	Northumberland	700
Lincolnshire		4,000	Durham	700
Hampshire		3,000	Cumberland	400
Cornwall		2,400	Westmoreland	300
Wiltshire		2,700	Monmouth	800
London	•••••	4,000	Anglesey	260
Middlesex		3,000	Brecknock	450
Dorsetshire		2,000	Cardigan,	350
Northampton		2,500	Carnarvon	260
Gloucester	• • • • • • • •	2,500	Carmarthen	450
Hertford		1,800	Denbigh	450
Buckingham		1,900	Flint	260
Sussex		2,600	Glamorgan	700
Surrey		1,800	Merioneth	220
Cambridge and Isl	e of Ely	1,800	Montgomery	550
Shropshire	• • • • • • • •	1,900	Pembroke	500
Berkshire		1,700	Radnor	240
Oxfordshire	• • • • • • • • •	1,700	<del></del>	
Leicester	• • • • • • • • •	1,800	£1	0 <b>0,020</b>
Hereford	• • • • • • • • •	1,600		

The compensation referred to was in respect of the rights of the Crown to fines on wardships, marriage, and other feudal revenues surrendered by Charles II., and which had been collected through the Court of Wards and Liveries. The proposed assessment on lands was not, however, carried into operation—a tax upon the

of Land Tax, and were even before then occasionally so designated.

Sir John Sinclair observes, that upon the accession of William and Mary, "the circumstances of the country were such, that no tax could be depended upon as sufficiently productive that was not imposed upon land, in the produce of which the wealth and income of England at that time principally consisted. That it might be rendered as efficient as possible, new assessments were taken of the property and income that each individual possessed. the rate was far from being equal. Those who were attached to the principles established at the Revolution were forward to show their zeal in favour of the new Government, and gave in a fair statement of their real situation; whilst the secret and avowed friends of the exiled family, the sordid and avaricious, gave in a very different account, estimating their property at the lowest rate at which it could be calculated. Hence the assessments, since known under the name of the Land Tax. were not in any respect so productive as they might have been."

The valuation above referred to was made in pursuance of the Act 4th William and Mary, c. 1, which directed an assessment of 4s. in the pound upon all real estate assessed on the bond fide rack-rent, and on offices (except naval

sale of ale and beer being substituted for it, by 12 Car. II. c. 24. Dayenant adds, "This apportionment was many months in forming, and made, no doubt, with great deliberation and judgment, since all the most considerable men of those times were of that committee."

and military); and on personal estate 24s. per 100l., or 4s. in the pound on 6l., the then legal rate of interest; stock on land and household property being exempt. King's Remembrancer in the Exchequer was required by the Act (s. 9) to engross in a book made of parchment the several sums returned to him as assessed upon every county, riding, city, and town, and every hundred, wapentake, parish, division, town, and place therein, which returns the Commissioners appointed for putting the Act into execution were therein directed to make. realised by the assessment amounted to 1,922,712l. Acts followed, imposing a certain pound rate upon the same description of property; but in the subsequent year, owing to the sum raised by this mode of assessment showing an annual decrease (h), it was deemed expedient that a specified sum should henceforth be levied, which sum was fixed at £1,484,015: 1s.  $11\frac{3}{4}d$ , by the 9 & 10 Wm. III. c. 10.

By reason of some difficulties which thereupon arose in apportioning the quotas to be paid by certain districts, the Act of the following year—the 10 & 11 Wm. III. c. 9, which granted a like sum of £1,484,015:1s.  $11\frac{3}{4}d$ .—directed that the proportion of tax which each district was found to

<sup>(</sup>h) "There has also been a trial of another 4s. pound rate, which, by reason, all oaths were waived, and very small penalties put upon the concealment, and the commissioners not of the King's nomination, as I am informed, hath fallen short of the two millions that were expected from it, so that other methods must be taken if you would make it anything equal or effectual."—Marquis of Halifax: Postscript to Essay on Taxes, &c. (1693), in Somers' Tracts, Vol. IX.

have borne under the assessment made pursuant to the Act 4th William and Mary, c. 1, should determine the ratio in which it was to contribute towards making up the quotas the Act imposed upon the several counties, cities, and hundreds as therein expressed (i).

(i) The following amounts were raised under the head of Land Tax in each year, from the accession of William and Mary to the 25th March, 1702, William III. dying on the 8th March in that year:—

1689: £412,925, by 1 W. & M. c. 3-

Real and Personal estate to contribute 68,820l. a month for six months, as by 29 Car. 2, c. 1, to be assessed equally, by a pound rate on all lands, tenements, hereditaments, annuities, rent-charges, and other rents, parks, warrens, goods, chattels, stock, merchandise, offices (other than military or naval), tolls, profits, and all other estates, both real and personal. Personal estate being rated on 6l. per 100l., the then current rate of interest.

1689: £496,108, by 1 W. & M. c. 20—
1s. per 1l. on Real estate assessed on the bonā fide rack-rent, and Personal estate 6s. for every 100l. of value thereof, or 1s. in the pound on 6l. (debts, stock on land, and household goods exempted).

1690: £1,015,732, by 1 W. & M. sess. 2, c. 1—
2s. per 1l. on Real estate, and Personal estate 12s. per 100l.

1690: £507,860, by 1 W. & M. sess. 2, c. 5—
1s. per 1l. on Real estate, and Personal estate 6s. per 100l.

1691: £1,651,702, by 2 W. & M. sess. 2, c. 1—
Real and Personal estate, including stock on land, to contribute by an equal pound rate, as by 1 W. & M. c. 3,

1691: £1,651,702, by 3 W. & M. c. 5-Ditto.

1692: £1,922,712, by 4 W. & M. c. 1—

4s. per 1l. on Real estate, assessed on the bond fide rackrent, and Personal estate 24s. per 100l., or 4s. in the pound on 6l., the annual value thereof; stock on land and household goods exempted. From the passing of this Act to the year 1798, the Land Tax was voted annually, and the Act under which the grant was thus yearly levied fixed the amount to be raised for the particular year, and named the pound rate at which the same should be assessed. The rates during this period ranged from 4s. in the pound, which was the highest rate named, to 1s. in the pound, the lowest imposed. In the year 1798, the usual Act was passed for granting the Land Tax for the service of that year. This Act, the 38 Geo. III. c. 5, directed the sum of £1,989,673:7s.  $10\frac{1}{4}d$ , to be raised in England and Wales,

1693: £1,913,488, by 5 W. & M. c. 1—Ditto.

1694: £1,860,039, by 6 & 7 W. & M. c. 3-Ditto.

1695: £1,736,248, by 7 & 8 W. 3, c. 5-Ditto.

1696: £1,244,789, by 8 & 9 W. 3, c. 6—

3s. per 1l. on Real estate; and Personal estate 25s. per 100l.; also a poll and wages tax.

1696: £418,646, by 8 & 9 W. 3, c. 24—
1s. per 1l. on Real estate, additional.

1697: £1,484,015, by 9 W. 3, c. 10—

18s. per 100l. of Personal estate, or 3s. in the pound on 6l. per cent., the annual value thereof, and Real estate by a pound rate, the residue of the fixed sum.

1698: £1,484,015, by 10 W. 3, c. 9—

18s. per 100l. of Personal estate, or 3s. per 1l. on 6l. per cent. Real estate the residue of the fixed sum.

1699: £989,965, by 11 W. 3, c. 2-

12s. per 100l. of Personal estate, or 2s. per 1l. on 6l. per cent. Real estate the residue of the fixed sum.

1700: £1,484,148, by 12 & 13 W. 3, c. 10—

18s. per 100l. of Personal estate, or 3s. per 1l. on 6l. per cent. Real estate the residue of the fixed sum.

(Hansard's Parl. Hist. Appendix.)

and fixed the contingent for Scotland at £47,954: 1s. 2d., which sum was the amount paid by that country since the Union. In accordance with the established practice, the Act mentioned the quotas to be set upon counties and certain divisions towards raising the amount to be paid in England and Wales, and required that such quotas should be still levied within the several divisions and subdivisions, in proportion to the sums respectively assessed thereon by the Act 4th William and Mary. The quota for Scotland was also to be raised according to the proportions specially named in the said Act.

Before this time, however, the principle of assessment observed under the first Land Tax Acts had been widely departed from. Personal estate, which it was evidently intended should contribute the larger share of the annual quota granted (k), had been gradually relieved from assessment; and to such an extent, that in 1798, the proportion of the quota borne by pensions, offices, and personal estate together, amounted only to about 130,000l. (l),

<sup>(</sup>k) Lord Loughborough, in delivering judgment in the case of Astle v. Grant (2 Dougl. 722), remarked of the Land Tax, "This Tax, although commonly called a Land Tax, is not in its nature a charge upon the land. It is a charge upon the faculties of men, estimated first according to their personal estate, secondly by the offices they hold, and lastly by the land in their occupation. The land is but the measure by which the faculties of the persons taxed are estimated." See pp. 34, 35, as to repeal of Land Tax on offices, and foot-note on p. 99, as to Scotch Land Tax on personalty.

<sup>(</sup>l) The Land Tax on personal estate was abolished in the year 1833, by the Act 3 Wm. IV. c. 12. The amount raised in the previous year throughout England and Wales was £5,214: 8s. 4d., in the following proportions:—

whilst lands, tenements, and other property contributed the remainder.

In the month of June of that year, Mr. Pitt produced his scheme for the redemption of the Land Tax, which was brought into operation by the Act 38 Geo. III. c. 60. The object of this measure was to diminish the pressure of the public debt in the market by causing the absorption of a large amount of Stock. In order to carry out the

County.	Amount Assessed.	County.	Amount Assessed.	
Bedford Berks Bucks Cambridge Chester Cornwall Cumberland Derby Devon Dorset Durham Essex Gloucester Hereford Hertford Huntingdon Kent Lancaster Leicester Lincoln London & Midlsx Westminster Monmouth Norfolk Norfolk Northampton Nottingham Northumberland Oxford	## 8. d.  116 10 0 26 4 10 61 3 0 16 18 6 140 13 5\$ 78 6 8 685 4 2\$ 62 11 0  1 0 0 22 7 9  — 85 8 0 64 12 6 5 16 5 26 19 1\$ 12 2 5 150 1 7\$ 1,260 11 11  — 841 14 8\$ 46 9 10  — 79 3 11	Brought forward Rutland Salop Somerset Southampton Isle of Wight Stafford Suffolk Surrey Sussex Warwick Westmoreland Wilts Worcester York  Anglesey Brecon Cardigan Carmarthen Carmarthen Carmarten Carmarton Denbigh Flint Glamorgan Merioneth Montgomery Pembroke Radnor	\$ s. d. 3,782 19 103 4 45 15 43 45 5 3  21 6 11 96 16 0 362 7 0 14 14 8 0 16 6 4 16 9 110 19 83 165 19 52 161 10 11	
Carried forward	3,782 19 10 <del>3</del>	Total	5,214 8 4	

plan, the Land Tax, which by the assessment of the current year was charged upon the several counties, ridings, stewartries, cities, boroughs, cinque ports, towns, and places in Great Britain, in respect of lands, tenements, and hereditaments, was made perpetual upon such counties, ridings, &c., subject to redemption; and the quotas thus rendered a fixed charge have been therein levied (minus the redeemed portion thereof) from the passing of such Act to the present time.

The quotas upon parishes cannot be varied (m). They are to be yearly raised in such parishes by an equal pound rate upon all the unexonerated lands, &c., therein. Owing to the quotas being thus fixed in perpetuity, the inequality of assessment, which prevailed even at the time when the tax formed the subject of an annual grant, has become much more apparent at the present day, especially in certain districts.

It is obvious, for instance, that many towns and parishes which in the year 1798 might have been paying a quota towards the fixed sum to be raised in Great Britain proportionate to the then annual value of the lands, &c. within their limits, would at the present day, by reason of their greatly increased wealth, be contributing an amount totally disproportionate to their modern value. On the other hand, parishes which, half a century ago, were populous and flourishing, and, by their accidents of situation or otherwise, are unable to present similar increase in value, maintain nearly the original rate of repartition of their quota. Hence it is that many of our large com-

<sup>(</sup>m) See foot-note to p. 23 (h).

mercial towns which have sprung into importance within the present century now contribute a rate from one farthing to one penny in the pound only, whilst others pay a shilling pound rate and upwards; and that in the metropolitan parishes the pound rate varies from one shilling to one farthing (n).

The tax on nearly 600 parishes in England and Wales has been wholly redeemed, the net quota in many instances being extinguished by the application of surplus land tax, notably in Paddington, Liverpool, and Manchester.

The unequal distribution of the tax was much insisted upon when Mr. Pitt brought before Parliament his plan for the redemption of the Land Tax, and was put forward as one of the chief obstacles to the measure; his principal opponent, Sir George Sinclair, contending that the inequality would be thereby perpetuated. In the debate on the Bill, which took place on the 9th May, 1798 (o), Mr. Pitt did not deny the existence of this inequality, but objected to take any steps to remedy the evil, on the ground that no proposition had been made for an equalisation of the tax, although it was voted annually. said, "I am ready to admit that I consider it to have been an original defect in the present plan of repartition, that no periodical revision was fixed. I think it would have been wise to have made such a provision, and that it would have been happy for the country if it had been done. Two important guards would be necessary: to prevent the

<sup>(</sup>n) The pound rate for the year 1893-94 ranged from 17th of a penny to 4s. in England and Wales.

<sup>(</sup>o) Parl. Hist. Vol. XXXIII.

inequality being too great, and at the same time not to . discourage improvement. The principle not having been at first recognised, and property having been since transferred without any attention to it, would it be wise, just, or popular, to make a new valuation? I think, after so many years' experience has shown that no inclination to establish a different repartition prevailed, we ought not to allow much weight to the objection that to perpetuate the tax would be to perpetuate the inequality." He added, "Does this measure give any new facility for a general Land Tax? No; it leaves the question of a more equal repartition where it found it. The only thing necessary to be provided, as expressly as any legislative provision can guard, is, that if ever a new Land Tax is imposed, it shall not be imposed upon those who have redeemed in any different proportion from that on those who have not redeemed. It would be necessary to provide that the amount of what may have been redeemed should be deducted from any new impost. It appears to me that such a provision would secure those who shall take the benefit of redemption as much from any additional charge in future on that account, as those who had not bought up their Land Tax at all."

Sir John Sinclair, who spoke at great length in opposition to the Bill, quoted the remarks upon the Land Tax made by Sir Robert Walpole, in 1732, when proposing to revive the tax upon salt, in lieu of part of the Land Tax. In the course of those remarks Sir Robert Walpole stated (o):—"There is no tax that ever was laid upon the

<sup>(</sup>o) Parl. Hist. Vol. VIII., pp. 943-967.

people of this nation, that is more unjust and unequal than the Land Tax. The landholders bear but a small proportion to the people of this nation or of any nation; yet no man contributes any the least share to this tax but he that is possessed of a landed estate; and yet this tax has been continued without intermission for above these forty years." Further on he observes:--"The Land Tax is the most grievous, the most unequal, and the most oppressive tax that was ever raised in this country;" and again, "There are some landed gentlemen that pay a Land Tax equal to the full value of their estates; while others equal to a third part of the real value; and generally those gentlemen who suffer most by this partiality are those whose ancestors were a sort of Knight-errants for the Revolution." It might be said that as the minister had in contemplation the bringing in of his Excise scheme, he was interested in putting the Land Tax in a most unfavourable light on this occasion; still, he was followed by Mr. Pulteney, who, though opposing the substitution of the salt duty for the Land Tax, remarked, "It is well known that there are many landed gentlemen who pay a groat of the shilling in the pound Land Tax; it is certain that there are few or no landed gentlemen who pay the whole shilling; there is not, I believe, one estate in England that is rated to the full value with respect to the Land Tax" (p). In a debate in 1751, when a Land Tax

<sup>(</sup>p) In 1746 appeared a pamphlet entitled "An Essay on the Inequality of our Present Taxes, particularly the Land Tax," by an anonymous writer, in which the inequality of the Land Tax is denounced in the following terms: "The Land Tax, which, though

of 3s. in the pound was proposed, Mr. W. Thornton complained of its inequality: he said:—"The Land Tax is so very partial a tax, that any other method of raising money is preferable to it, and the present manner of assessing it is unequal and unjust."

it pretends to raise one-fifth of the yearly income of the country, does not, in fact, raise a tenth, perhaps not a twelfth, and that with such manifest irregularity, partiality, and injustice, as no court or assembly of men, was the fact brought fairly in question before them, could or ought to countenance."

With regard to the mode of assessing it, the author remarks: "Instead of any inquiry directed to be made, what may be the value of the lands in each county, out of which the 4s. in the pound shall be raised, a certain sum is fixed upon each county, which in some counties may, upon an average, amount to 2s., in others to 1s., and in some scarce to 6d. in the pound, but does not in any county of England amount to 3s., and I verily believe that, at this day (1746), there is not a personal estate that pays 1s. in the pound.

"I have taken much pains to estimate how much, upon an average, each county pays. London, Westminster, and Middlesex pay the highest; but none of these pay 3s. in the pound, nor is there any county that pays 2s. except, perhaps, Surrey, Sussex, Hertford, Bucks, Oxon, Warwick—they may pay about 2s.; Kent, Norfolk, Suffolk, Hants, and the midland counties pay about 1s. 6d., 1s. 10d., and 1s. 11d.; the great counties of York, Somerset, and Devon, about 1s. 6d.; Cornwall less; and in Wales and Lancashire, and the northern counties, they pay under 1s.

"Scotland pays a fortieth part of the Land Tax of England, though, upon reasonable computation, the value of her lands is one-sixth of that of England.

"Though I have mentioned London, Westminster, and Middlesex as paying 3s., I have good reason to believe that 2s. 6d. is the most they pay. But what is more extraordinary is, that some parishes in each district pay full 4s., whilst others scarcely pay a third part—nay, even in the same parish, some pay half as much more as others." Sixteen years later, Mr. C. Townsend, in successfully opposing a grant of 4s. in the pound for the service of the year 1767(q), declared that "this new imposition of a tax, so unequally laid, doubled the injustice by oppressing a set of men whose patient acquiescence in the time of necessity merited the earliest relief from the State."

It is difficult to understand why no attempt was made, during the time when the Land Tax was imposed yearly, to remedy a defect so constantly and so forcibly exposed both by statesmen and writers, whose comments appear to have always remained unchallenged; the more so, as the inequality of repartition was pointed out even at the period of the first imposition of the tax. The Marquis of Halifax, writing in 1692, adverts to it in his "Essay upon Taxes, calculated for the present juncture of affairs in England" (r). After observing that the Land Tax was but a military contribution taken up in the Civil War, and proportioned to the condition of the kingdom as it then stood forty years ago, he adds, "The inequality is so exorbitant both between county and county, division and division, parish and parish, and impossible to be rectified without a punctual survey of the whole; and lying wholly upon the landlord, where estates are not upon lives or fines; wherein the dignified clergy pay not one groat, nor money nor personal estate come in to the aid; and which lies so heavy upon the nobility and gentry above

<sup>(</sup>q) The grant of a Land Tax at 3s in the pound was substituted, and it was understood to have been the first money bill carried against the Ministry since the Revolution.

<sup>(</sup>r) Somers' Tracts, 1 Coll. Vol. IV.

all others, to the weakening and diminishing their estates, who are the chief support of the monarchy; I take it to be the most impolitick and unreasonable method of raising great sums by that ever was introduced in any nation, and impossible to be long borne and continued." This inequality of distribution is confirmed by Adam Smith, who remarks that "the valuation, according to which the different counties and parishes were assessed to the Land Tax by the 4 William and Mary, was very unequal even at its first establishment." But he observes, at the same time, "A Land Tax assessed upon each district, according to an invariable canon, though it should be equal at the time of its first establishment, necessarily becomes unequal in process of time, according to the unequal degrees of improvement or neglect in the cultivation of the different parts of the country. As the tax upon each district does not rise with the rise of the rent, the Sovereign does not share in the profits of the landlord's improvements." Notwithstanding these reiterated complaints of the inequality of repartition, it can hardly be disputed that by reason of the great augmentation in the value of property throughout Great Britain, within half a century from the first grant of the tax, even those districts which appeared the most heavily assessed paid considerably under the rate per pound annually imposed, the main grievance consisting in the fact that the other districts contributed in a still less proportion. This circumstance may explain the slight support those repeated appeals for equalisation received; the representatives of the districts in which a lighter repartition prevailed being naturally interested in maintaining the existing rate of distribution. If, indeed, a revision had been determined upon, it would have been necessary to depart from the practice of naming the total sum to be raised in the Act granting the supply; otherwise the revision would have resulted in the mere shifting of a portion of the already reduced tax from the higher charged districts to those more lightly assessed, instead of causing both to contribute in proportion to their increased value. From the time, however, when the Land Tax was made perpetual, the revenue was, of course, excluded from deriving any benefit from the improving condition of the property chargeable with the duty (s).

(s) In Belgium, where the Land Tax is also raised by fixed quotas imposed upon the several provinces in that country, the loss resulting to the revenue from this mode of assessment has been lately to some extent provided for, as all new buildings are made liable to a distinct charge beyond the quota, payable by the district where they lie. The quotas are set against the different provinces as follows:—

Antwerp	Francs.
Brabant	2,817,373
West Flanders	2,352,033
East Flanders	
Hainault	
Liege	1,520,525
Namur	977,978
Limburg	686,156
Luxemburg	556,152
Mata1	15 500 000

There is also raised an additional tax of 18 per cent. on the above. In France a specified sum is annually named, to be levied as a Land Tax (contribution foncière); and the Act by which it is granted fixes the charge to be sustained by each department. For the incidence of this tax see the very able work of M. Esquirou de Parieu, "Traité des Impôts, &c.," 4 vols., Paris, 1866.

## PART I.

#### STATUTES.

From the fourth year of the reign of William and Mary (as before shown) the duties raised in England, under the head of Land Tax, were levied at rates varying from one shilling to four shillings in the pound, according to the exigencies of the times, by Acts annually passed for such purpose, down to the year 1798, when so much of the quota of Land Tax granted by the Act of that year-the 38 Geo. III. c. 5--as was assessed upon lands, tenements, and hereditaments, was made perpetual by the 38 Geo. III. c. 60, subject to redemption, which latter Act continued the powers and provisions of the 38 Geo. III. c. 5, for assessing and levying the unredeemed portion of the tax. These powers and provisions were also continued by the 42 Geo. III. c. 116, which repealed most of the 38 Geo. III. c. 60, and were practically confirmed by the 53 Geo. III. This group of statutes, together with the 16 & 17 Vict. c. 74, the 16 & 17 Vict. c. 117, s. 1, and the 52 & 53 Vict. c. 42, are the principal Acts relating to the subject; but there are others of less general importance, referred to in this book, which need not here be cited (a).

The substance of the existing enactments, in the order in which they are brought into operation for the due raising of the duties, may be more conveniently considered in detail.

<sup>(</sup>a) It is necessary here to include the 43 & 44 Vict. c. 19 (Taxes Management Act, 1880), which incidentally makes some minor alterations and additions with regard to the administration of the Land Tax. For the sake of conciseness it is hereafter referred to as the "T. M. A." By sect. 7 of that enactment a reference is to be made to it with regard to the Act 38 Geo. III. c. 5. The expression "Land Tax Acts" in the T. M. A. means "any Act or part of any Act relating in any way to the assessment or redemption of the Land Tax" (vide sect. 5).

## PART II.

### PROPERTY CHARGEABLE, AND EXEMPT.

First, as to property assessable.

The following are declared liable to assessment:—

All and every manors (a), messuages, lands (b), tenements, quarries, mines, iron mills, furnaces, and other iron

(a) The lord of a manor is not assessable for fines paid on deaths, admissions, or alienations, and other casual profits, but only for quit rents, which are annual and certain, the grounds for such exemption being, that as the lands in the hands of the copyholders are chargeable equally with freehold lands, they would, if the lord were assessed in respect of the fines, have to bear an undue proportion of tax in those years in which such casual profits happened. The mere circumstance, however, of these profits being casual could hardly be held to secure their immunity from assessment (although much stress has been laid thereon as an argument for their exemption), when it is remembered that the profits arising from mines, quarries, tolls, &c., which are of an equally fluctuating nature, are expressly made chargeable to Land Tax.

The principal reason assigned for the non-rateability of fines, in the case of Astle v. Grant (2 Dougl. 722), appears to have been, that the Land Tax was an annual impost; and as such grounds for

<sup>(</sup>b) A waterworks company is not liable to pay Land Tax in respect of the land through or on which, by a parliamentary power, it is entitled to lay, and does lay, its mains and pipes for the conveyance of water, such a power being only in the nature of an easement, and therefore not making them holders of "land or of an hereditament" within the Land Tax Acts. Chelsea Waterworks Company v. Bowley, 17 Q. B. 358; 15 Jur. 1129; 20 L. J. Q. B. 520; 17 L. T. 284.

works, salt springs and works, alum mines and works, parks, chases, warrens, woods, underwoods, coppices, and all fishings, tithes (c), tolls (d), annuities (e), and all other

exemption have ceased to exist since the tax has been made perpetual, an inference subversive of their title to exemption might, it is conceived, be drawn therefrom, in the absence of the more valid reasons first alleged.

In delivering judgment, in the case adverted to, Lord Loughborough said, "This question was truly considered as of great concern by the public at large. It has undergone a very deliberate examination, and we are all of opinion that the lord of the manor is not bound to make any deduction for Land Tax out of a fine due for admission on a descent, which is the present case. The grounds which led us to this determination lie in a very narrow compass. In the first place, the Land Tax is annual, and, however probable its continuance may be, there can be no legal presumption as to the future intention of the Legislature, and there can be no deduction by anticipation of an uncertain future burthen."

- (c) By the Tithe Commutation Act, 6 & 7 Wm. IV. c. 71, s. 69, every rent-charge, payable instead of tithes, is subject to all parliamentary, parochial, county, and all other rates, charges, and assessments, in like manner as the tithes commuted for such rent-charge were previously chargeable. (But see Cases Nos. 1 and 8).
- (d) Tolls are liable as distinct tenements. Vauxhall Bridge Co. v. Sawyer, 6 Exch. 504; 17 L. T. 144; 20 L. J. Ex. 304. Tolls chargeable, notwithstanding redemption of Land Tax on site of bridge. Mitchell v. Charing Cross Bridge Company, 24 L. J. Q. B. 74; 24 L. T. 233; 4 Ell. & Bl. 549; affirmed in error, 25 L. J. Q. B. 131 (in error). See also The Company of Proprietors of Waterloo Bridge v. Cull, 28 L. J. Q. B. 70; 5 Jur. (N. S.) 464; 32 L. T. 158.
- (e) Whether an annuity or rent-charge out of the profits of the New River Company is to bear the full assessment to the Land Tax, or to have the benefit according to the proportion of a reduction in consequence of an assessment upon the profits of company at an under value, quære? The bill by the annuitant was dismissed, the Court refusing to raise an equity as to the profit

yearly profits, and all hereditaments (ee), fee farm rents, and all other rents, payments and sums of money, issuing out of any lands (38 Geo. III. c. 5, ss. 4 and 24).

These are to be charged with as much equality and indifference as is possible, by a yearly assessment (f), to be made at an equal pound rate (g), not exceeding four shillings in the pound, upon the real yearly value thereof, towards raising the quotas made perpetual by the 38 Geo. III. c. 60 (h), upon the several cities, boroughs, towns,

arising from disobedience to the Act. Adair v. New River Company; 11 Ves. 429.

Where an annuity is given to a relation for life, and has been paid for any length of time without a deduction for Land Tax, it will be presumed to have been so paid by mutual consent, and the payer is not entitled to be relieved. Nichols v. Leeson, 3 Atk. 573.

A., in satisfaction of a widow's dower, mortgaged lands on consideration to be paid 201. per annum. This being an annual payment, secured by land, was held liable to answer taxes in proportion as the land paid; but the Court refused to make the annuitant refund in respect to the payments she had received tax free, and for which the party paying omitted to deduct. Attwood v. Lamprey, cited East v. Thornbury, 3 P. W. 127, n.

For cases where a deduction for taxes is to be made out of an annuity, see Robinson v. Stephens, 2 Salk. 616.

- (ee) "Hereditament" and "easement" distinguished. Tunnels held to be liable. See Case No. 9, Metropolitan Ry. v. Fowler, p. 175.
- (f) The Court will grant a summary application against Commissioners of Land Tax to compel a due assessment. Attorney-General v. Land Tax Commissioners for the Division of Haytor, Devon, 12 Pr. 647.
- (g) As to the power of District Commissioners of Land Tax to raise a surplus in excess of the quota, with a view to the redemption eventually of the entire charge on the parish, see the judgment of the Exchequer Division in the case of Simpkin v. Robinson, given in the Appendix. (See p. 49, note (f).)
  - (h) The long controversy which had at different times arisen

parishes, and places in England, Wales, and Berwick-upon-Tweed (42 Geo. III. c. 116, s. 180).

The poor-rate valuation is very generally adopted as the basis for assessment to the Land Tax, and may in most cases be regarded as a sufficiently convenient and equitable mode of valuation for the purpose. (See Case No. 10, p. 192).

All lands, &c., are to be rated and assessed in the places where such lands lie, and not elsewhere (i) (38 Geo. III. c. 5, s. 53).

respecting the power alleged to be vested in the District Commissioners to equalise the quotas payable by the several parishes or districts within any division, was finally settled by the Court of Queen's Bench in the case of "The Queen v. Land Tax Commissioners for the Tower Division," in which it was decided that the Commissioners have no such power, but that each parish is separately charged with the quota fixed upon it in the year 1798. It is impossible to exaggerate the importance of this carefully-considered judgment, which settled the law once and for all. It is given in full in the Appendix.

(i) An exception is made by 4 & 5 Wm. IV. c. 60, s. 2 (subject to sect. 7, T. M. A.), with respect to those lands formerly waste or open, or common fields, which have been, since their inclosure, rated to the Land Tax in other parishes than those in which they lie. It is thereby enacted that all allotments, &c., which previously formed part of such lands, may be assessed in such manner, and in such parish, &c., as they have been since their allotment or inclosure, although they may not lie in the parishes where they are so rated or assessed.

See also the very important recent case of "The Queen v. Land Tax Commissioners for Morpeth" (p. 30), which seems to settle the point that where land has been assessed elsewhere than in the parish in which it is situate since the year 1798, that property shall continue to be so assessed. Appendix, see Case No. 5, p. 159.

Attention may also here be called to another recent case, viz., Cooch v. Walden, 46 L. J. Ch. 639, where a question arose as to the Act 6 & 7 Wm. IV. c. 115, which contains a clause assimilating

Tenants are to pay the tax, and deduct it out of their rent (j), and if any question or difference should arise between them and their landlords concerning the rate, the Commissioners for putting the Act into execution have power to settle the same as they may think fit (ss. 17 and 18).

Contracts or agreements, however, between landlord and tenant, touching the payment of taxes and assessments, are not to be affected (s. 35) (k).

the tenure and quality of lands exchanged and allotted to that of the lands in respect of which the allotment or exchange is made. It was held that the statute does not transfer a liability to Land Tax from one property exchanged to the other.

- (j) In the case of Spragg v. Hammond, 4 Moore, 431, and 2 Brod. & Bing. 59, plaintiff held premises under a lease silent as to Land Tax. Defendant distrained on him for six years' rent, when plaintiff, for the first time, insisted for an allowance of Land Tax. It was held that payments of this kind are to be considered as voluntary, and cannot be recovered back. See also Andrew v. Hancock, 1 B. & B. 37; Saunderson v. Hanson, 3 C. & P. 314.
- (k) Land Tax is a "Parliamentary Tax," within the meaning of an agreement to pay rent, "and all taxes, Parliamentary and Parochial." Manning v. Lunn, 2 C. & K. 13 (Pollock). Where a tenant verbally agreed "to pay all taxes," it was held that, under this agreement, he was bound to pay the Land Tax, although it was not specifically mentioned. Amfield v. White, 1 R. & M. 246.

Where the owner of a house, in consideration of a premium, demised it at one-third of its annual value, and afterwards redeemed the Land Tax, held that he was entitled to receive from the tenant an annual payment equal to two-thirds of the Land Tax redeemed. Ward v. Const, 10 B. & C. 634; 5 M. & R. 402.

A lessee covenanted "to pay all parliamentary, parochial, and other taxes, tithes and assessments, then or thereafter to be issuing out of all or any of the demised premises, or chargeable upon the landlords or tenants thereof, for the time being, in respect thereof."



Assessments upon the houses of foreign Ministers are to be paid by the landlord or owner (s. 46).

Held that a rent-charge imposed on the premises, in lieu of the Land Tax, which had been redeemed or purchased by a former tenant of the premises, under 42 Geo. III. c. 116, was a parliamentary tax or assessment within the meaning of the covenant. Christ's Hospital (Governors) v. Harrild, 2 Man. & G. 706; 3 Scott, N. B. 126.

Where a landlord covenants to pay the Land Tax, he is only bound to pay that portion of the tax assessed in respect of the rent received by him. Whitfield v. Brandwood, 2 Stark. 440; and Yaw v. Leman, 1 Wils. 21.

Where a party took part of certain premises, the whole of which were rated at a certain annual value, and the lessor covenanted to pay all taxes then chargeable thereon, and the lessee covenanted to pay all fresh taxes which might thereafter be charged on the premises, or any part thereof, the true construction of these covenants was held to be that the lessor should pay such taxes as were charged on the premises at the time of making the lease, at the then annual value; and that the lessee should pay all fresh taxes, and all such additions to those formerly chargeable, as were occasioned by the improved value of the premises. Watson v. Atkins, 3 B. & Ald. 647.

Under a covenant in his building lease by the tenant, to pay all taxes except the Land Tax, the landlord is only to pay the old Land Tax, and not the additional tax occasioned by the improvement of the estate. Hyde v. Hill, 3 S. R. 377; Rex v. Scott, 3 S. R. 602; and Smith v. Humble, 15 C. B. 321.

Where a tenant has paid a tax which his landlord is bound to pay, he may recover the amount by action. Graham v. Tate, 1 M. & S. 609.

An assessment levied under an Act of Parliament enabling the owners of land to raise money for repairing a bridge, to the repair of which they were liable ratione tenuræ, is not a parliamentary tax charged upon demised premises within the meaning of a covenant in a lease to pay rent "free and clear of and from any Land Tax, and all other taxes and deductions whatsoever, either parliamentary

1211

Every assessment to the Land Tax should be made upon the several occupiers of the property chargeable (l).

The 5th section of 38 Geo. III. c. 5, after reciting that many of the manors, messuages, lands, tenements, tithes, hereditaments, and premises liable to assessment to the Land Tax, are subject to the payment of several rentcharges or annuities, and other annual payments issuing out of the same, or to the payment of divers fee farm rents, rents service, or other rents thereupon reserved or

or parochial then already taxed, charged, or imposed, or thereafter to be taxed, charged, or imposed upon the said demised premises, or any part thereof, or upon the said W. G., his heirs, executors, or administrators or assigns in respect thereof, the landlord's property tax or duty only excepted." Baker v. Greenhill, 2 Gale & D. 435; 6 Jur. 710.

Where a man had power to make a jointure without any deduction for any charges imposed or to be imposed, parliamentary or otherwise, it does not mean only such as are fixed and certain; but the Land Tax, though fluctuating, is clearly within that power. But a bishop covenanting to pay all charges, ordinary or extraordinary, does not subject himself to the Land Tax, because he cannot bind his successors—otherwise in the case of a common person who can bind his heirs. Blandford v. Marlborough, 2 Atk. 542.

(1) In the case of R. v. Mitcham, Cald. 276, Lord Mansfield said, "Undoubtedly the rate ought to be charged upon the occupier, for although the landlord is the debtor, the rate is pointed at the occupier; the parish cannot tell who is the landlord, or who has a rentcharge; it is upon the occupier the officer of government takes his remedy; and though the landlord is directed to allow the sum paid, out of the rent, the tenant is to be considered as the person first liable; the parish has nothing to do with transactions between landlord and tenant."

charged, and that consequently the owners of the lands so encumbered do not receive the true yearly value of the same, authorizes such landlords and owners to abate and deduct out of every fee farm rent, or other annual payment, so much of the pound rate assessed upon the said manors, lands, &c., as a like rate for every such fee farm rent, or annual payment respectively, shall, by a just proportion, amount to, so as such fee farm rent, or other annual rent, do amount unto twenty shillings per annum or more.

In the case, however, of fee farm rents, or other chief rents, payable to the Crown, or to any person deriving title from the Crown by purchase, under the Acts 22 & 23 Charles II. cc. 6 and 24, it is enacted (38 Geo. III. c. 5, ss. 30 and 31) that the receivers thereof are to allow to the parties paying the same four shillings in the pound upon such rents, and a proportionate rate for any greater sum than ten shillings, excepting such fee farm rents as were payable before 25th March, 1693, to any college, hospital, or any person exempted by the Act; and provided such deduction does not exceed the sum assessed upon the whole estate, out of which such fee farm rents, &c., may issue (m).

Secondly, as to persons and subjects exempt.

The Sovereign, by virtue of royal prerogative, is

<sup>(</sup>m) Owners of land, who have redeemed the Land Tax, may make the deductions, notwithstanding the redemption, and those entitled to the fee farm rents should allow them. (42 Geo. III. c. 116, s. 127.) See also Moody v. Dean and Chapter of Wells, 1 H. & N. 40; 25 L. J. Ex. 273; 27 L. T. Ex. 82.

exempted from the operation of all statutes imposing duties on the subject (n).

The 25th section of 38 Geo. III. c. 5, declares exempt, colleges and halls in either of the two universities of Oxford and Cambridge, and the colleges of Windsor, Eton, Winton, and Westminster, the corporation of the governors of the charity for the relief of poor widows and children of clergymen, and the college of Bromley, and all hospitals in England, Wales, or Berwick-upon-Tweed, for or in respect of the sites of the colleges, halls, or hospitals, or any buildings within the walls or limits of the said colleges (o), halls, or hospitals. It also exempts all masters, fellows, readers, officers, &c., of any college or hall, and all masters and ushers of schools, from assessment for any profits or exhibitions, &c., arising or growing due to them in respect of their places or employments in such universities, colleges or schools. The same section further exempts any houses or lands, which, on or before

<sup>(</sup>n) R. v. Cook, 5 T. R. 519; see also Attorney-General v. Hill, 2 M. & W. 160, as to assessments on Royal Dockyards.

<sup>(</sup>o) The buildings of a college in one of the universities, taken into and made part of the college, between the passing of the first Land Tax Act and the Act that made that tax perpetual (38 Geo. III. c. 60), are exempted from the tax, although chargeable therewith previous to their so forming part of the college. But where a college, after the passing of the first Land Tax Act, purchased land of a parish under a private Act of Parliament, which provided that the college should pay all taxes which the premises then were or should thereafter be subject to, it was held that the land was not exempted from Land Tax. All Souls College, Oxford v. Costar and another, H. T. 1804, C. P.; 3 B. & P. 635.

the 25th March, 1693, belonged to the sites of any colleges or halls in England, Wales, or Berwick-upon-Tweed, or to Christ's Hospital, St. Bartholomew's, Bridewell, St. Thomas's, and Bethlehem Hospitals, in the city of London or borough of Southwark, or any of them (p), or to the said corporation of the governors of the charity for the relief of poor widows and children of clergymen, or to the college of Bromley and any other hospital or almshouse, for or in respect only of any rents or revenues which, on or before the 25th March, 1693, were payable to the said hospitals or almshouses, to be disbursed for the

(p) In Harrison v. Bulcock, 1 H. Black. 68, which was an action in the Common Pleas, it was determined that a house within the limits of a hospital, appropriated to an officer of the hospital for the time being, is not assessable to the Land Tax. In this case, the premises on which the assessment was made did not form part of the old site of the hospital, and they had been assessed to the Land Tax before they were taken into the hospital.

It has been held that the exemption is not applicable to the sites of hospitals which have become such since the Land Tax was made perpetual by 38 Geo. III. c. 60,—see Case No. 3, p. 141, Colchester v. Kewney. Also, see Case No. 6, p. 162, Cox v. Rabbits, where the House of Lords upheld the decision of the Court of Appeal (reversing the decision of the Court of Queen's Bench), that the exemption of the sites of hospitals in 38 Geo. III. c. 5, from assessment to the Land Tax, is an exemption impressed upon the land itself, and remains unaffected by the removal of the hospital to another site, and the application of the land to other uses. The justice of these decisions—as well as that in Case No. 5, p. 159, R. v. Morpeth Commissioners (page 24)—is apparent when it is remembered that the quotas payable in each parish were fixed in amount, subject to redemption, in the year 1798.

immediate use and relief of the poor of the said hospitals, &c., only.

But all houses and lands held by lease or grant from the said corporation, or of any of the said hospitals or almshouses, are liable to be assessed for so much as they are yearly worth, over and above the rents reserved and payable to such corporation, &c., to be disbursed for the immediate relief of the poor of such corporation, &c. (s. 26).

The District Commissioners of Land Tax are to determine how far lands, &c., belonging to hospitals, &c., not exempted by name, are liable to assessment (s. 28).

All lands, &c., belonging to any hospital, or settled to any charitable or pious use, which were assessed in the fourth year of William and Mary, are likewise chargeable, all other lands, &c., then belonging to such hospitals, &c., not then assessed, being exempt (s. 29).

The tenants of any houses and lands belonging to the said colleges, halls, hospitals, &c., who, by their leases or agreements, are bound to pay rates and taxes, are also liable to assessment (s. 27).

No poor person shall be chargeable whose lands, tenements, or hereditaments, are not of the full yearly value of 20s. in the whole (s. 80).

Tolls or duties on turnpikes on public roads are not chargeable (s. 122).

In addition to the above exemptions thus distinctly provided for, there are the following, arising both incidentally and directly out of the redemption Acts:—

Allotments, under Inclosure Acts (q), are likewise not chargeable when made in respect of lands or common rights, &c. belonging to hospital lands, &c. coming within the exemptions contemplated by the 25th section of 38 Geo. III. c. 5.

Upon the partition of any lands, &c. held by co-parceners or joint-tenants, &c. the allotments made to such of the co-parceners, &c. who have redeemed their proportion of Land Tax, are exonerated from assessment (42 Geo. III. c. 116, s. 39).

By the Act 53 Geo. III. c. 123, s. 38, tithes and other hereditaments belonging to any livings, the Land Tax whereof had been redeemed previous to the passing of that Act, were discharged from liability to assessment, although not rated to the Land Tax at the time of redemption; and all tithes and hereditaments sold or conveyed by any body politic or corporate, or company, or any feoffees or trustees

(q) With regard to allotments under Inclosure Acts, see the case of Boehm v. Wood, 1 T. & R. 334, where it was held by the Master of the Rolls, that when lands are allotted under an Inclosure Act in respect of rights appurtenant to other lands, of which the Land Tax has been redeemed, the Land Tax does not attach upon the allotment.

See also 4 & 5 Wm. IV. c. 60, s. 2, as to which a reference is to be made to the T. M. A., under sect. 7.

Attention is also called to the case of Hodgson and another v. Pearson, the judgment in which is given at length in the Appendix, where the Court of Common Pleas held, that when a manor has once been charged with Land Tax, and the tax once redeemed, no after enclosure of the waste lands will render the manor liable to reassessment.

for charitable or other public purposes, for redeeming Land Tax on other hereditaments, were likewise declared free from assessment, though not rated to the Land Tax at the time of such sale or conveyance thereof.

## "EXONERATION OF SMALL LIVINGS."

By the Acts 46 Geo. III. c. 133, 49 Geo. III. c. 67, 50 Geo. III. c. 58, and 53 Geo. III. c. 123, powers were given to Commissioners, appointed under the Great Seal, to direct the exoneration and discharge of the Land Tax charged upon the lands, tenements, and other hereditaments belonging to any livings, or other ecclesiastical benefices and charitable institutions, the whole annual income whereof did not exceed 1501, without payment of any consideration.

It was enacted by 53 Geo. III. c. 123, s. 38, that all messuages, lands, tithes, and other hereditaments belonging to the several livings, &c. which had been or were intended to be exonerated from Land Tax, under the powers of the above Acts, should be absolutely discharged and exonerated from Land Tax from the periods of their exoneration under either of those Acts and from all future assessments to the Land Tax, notwithstanding certain portions or parts of the tithes, or other hereditaments belonging to such livings were not, at the respective periods of exoneration, rated to the Land Tax.

These powers of exonerating small livings, &c. were renewed and enlarged by the 54 Geo. III. c. 173, and

57 Geo. III. c. 100 (r), the last of these series of Acts; and the Commissioners for executing such Acts might exonerate the hereditaments belonging to such livings, &c. not rated to the Land Tax, from liability to assessment: and all the hereditaments belonging to any living so exonerated are thereby declared free from any future assessment, although any of them, or any parts thereof, were omitted to be rated to the Land Tax at the time of exoneration (57 Geo. III. c. 100, s. 4). It will be seen on reference to this Act, that the powers of these Commissioners were to cease in 1820. These groups of special statutes and the powers they conferred having therefore long since ceased to exist, it is of course too late now to claim exemption in respect of a living below 1501, unless it was actually exonerated by the special body of Commissioners while their powers were in existence (see Table on p. 92). Allotments made under Inclosure Acts, in respect of lands, &c. belonging to livings exonerated under the powers of the above recited Acts, are also not assessable to Land Tax.

#### OFFICES AND PENSIONS.

The duties on personal estates were repealed in 1833, by the 3 Wm. IV. c. 12, and the duties of one shilling

(r) Where any tenant or lessee at rack rent, for any term of years or at will, of any lands, tithes, or other hereditaments belonging to any living, or other ecclesiastical benefice or charitable institution, which has been exonerated from Land Tax under the provisions of the above enumerated Acts, was bound by agreement to pay the Land Tax, the amount of the Land Tax so exonerated is to be considered as rent reserved during the continuance of the lease or demise (57 Geo. III. c. 100, s. 9).

and of sixpence formerly chargeable on certain offices and employments of profit, and annuities, pensions, and stipends, and also the duties on offices and pensions, formerly assessable by the Commissioners of Land Tax, were repealed by 39 Vict. c. 16, s. 12.

By 40 Vict. c. 10, the aforesaid repeal of one shilling and of sixpence only extends to cases where they are assessed by Commissioners of Land Tax.

### Part III.

#### COMMISSIONERS.

THE Land Tax is assessed under the exclusive control and direction of local Commissioners, who were formerly appointed for the purpose by special Acts of Parliament, whenever occasion requires, either that an increase be made to the existing number, or that vacancies be supplied. These Acts were known as the "Names Acts."

The last of these Acts (the 32 & 33 Vict. c. 64) was passed in August, 1869. An alteration was effected by this Act in the mode previously observed of appointing such Commissioners. In lieu of the name of each newlyappointed person being inserted in the Act itself, it was provided that the persons named in a schedule signed and deposited with the Clerk of the House of Commons, should be empowered to act as Commissioners (being duly qualified) as fully and effectually as if they had been named in the therein recited Act of the 7 & 8 Geo. IV. c. 75, the printing of the Schedule in the "London Gazette" being declared sufficient evidence thereof for all purposes. No person is qualified to act as Commissioner of Land Tax for any county in England or Wales (the counties of Merioneth, Cardigan, Carmarthen, Glamorgan, Montgomery, Pembroke, Radnor and Monmouth excepted), or for any of the ridings of the county of York, unless he be possessed of a freehold, copyhold, or leasehold estate, of the clear yearly value of 100*l*., or be heir apparent of a like estate of the yearly value of 300*l*., one moiety whereof is situate in the county or riding for which he is appointed Commissioner (38 Geo. III. c. 48, s. 3). A person may so act for the counties of Anglesey and Carnarvon if possessed of an estate of 60*l*. per annum.

The qualification to act as Commissioner for any city, borough, cinque port, or town corporate (except those for which the qualification is particularly specified in the 38 Geo. III. c. 5) (a), is the possession of a freehold, copyhold, or leasehold estate, of the clear yearly value of 40*l*., or of personal estate to the amount of 1,000*l*.; and the person to be elected Commissioner must be an inhabitant of such city or borough, &c. (38 Geo. III. c. 48, s. 2).

No Commissioner can act without subscribing, if required, an oath, specifying his property qualifications (38 Geo. III. c.  $\delta$ , s. 49) (b).

Commissioners for cities, boroughs, &c., must in all cases take and subscribe the oath of qualification before acting (38 Geo. III. c. 48, s. 1) (c).

Any person acting without being duly qualified is liable to a penalty of 50% for each offence (38 Geo. III. c. 5,

- (a) For the city of London and liberty of St. Martin's-le-Grand an estate of 20l. per annum is required; and for the city and liberty of Westminster a like estate of 50l. (38 Geo. III. c. 5, ss. 93, 94.)
- (b) See 31 & 32 Vict. c. 72—Substitution of Declaration for Oaths.
  - (c) All persons acting as justices of the peace for any county,

s. 96, and 38 Geo. III. c. 48, s. 1) (d). Upon the passing of any Land Tax Commissioners' Name Act, a person who qualified under any former Act is not required again to sign his qualification under such new Act, although he may be named therein (e).

shire, riding, division, or district, within England and Wales, and possessing the qualifications above recited, are empowered to act as Commissioners of Land Tax (7 & 8 Geo. IV. c. 75, s. 1).

No person who has held the office of inspector or surveyor of taxes is capable of acting as a Commissioner of Land Tax (7 & 8 Geo. IV. c. 75, s. 6). Nor can a collector of any aid granted to the Crown so act (38 Geo. III. c. 5, s. 92).

- (d) An opinion appears to prevail that it was decided, in Williams v. Steward, that the Commissioners for putting the Land Tax Act into execution are merely the servants of the Crown for the purpose of the Act, and have no personal responsibility; that there is no estate vested in them by the Act, nor any interest in the property which is the subject of it; and that no remedy, therefore, lies against them but in the Queen's Bench, by mandamus (and which is doubtful), or by suit in the Exchequer (Williams v. Steward, 3 Mer. Rep. 494). It may be observed that the Commissioners respecting whom such decision was pronounced in the above case were Commissioners for putting into execution the Acts relating to the redemption of the Land Tax; a perfectly distinct body from the Commissioners appointed to superintend its assessment.
- (e) By sect. 5 of the T. M. A., two Land Tax Commissioners form a quorum.

# PART IV.

# ASSESSMENT (a).

By 38 Geo. III. c. 5, ss. 7 and 8, the Commissioners are required to meet together at the most usual and common place of meeting within the counties, divisions, towns, and places, for which they are appointed to act, on or before the 30th April in each year, and afterwards as often as may be necessary.

At their preliminary meeting (first appointing a fit person to be their clerk) (b), they are to issue their several or joint precepts to such inhabitants as they may think most convenient to be precentors and assessors, of whom they should appoint at least two (c), and should re-

- (a) See footnote to p. 20.
- (b) Sect. 41, T. M. A.
- (c) If any person so appointed assessor refuses to serve, or makes default at the time appointed for his appearance, or is guilty of any fraud or abuse in executing the same, he is liable to a penalty not exceeding 40*l*. (38 Geo. III. c. 5, s. 19). This penalty is recoverable before the District Commissioners by information and summons. (See also as to collector, p. 48.) But no inhabitant of a city, borough, or town corporate can be compelled to act as assessor beyond the limits of such city, &c. (sect. 45).

It has been held that the acts of a person duly appointed as assessor and collector were valid, although he was not duly qualified by inhabitancy. Company of Proprietors of Waterloo Bridge v. Cull, quoted page 22.

In places extra-parochial, and parishes where two able and sufficient persons cannot be found, the Commissioners may appoint persons living near such places to act (sect. 47).

quire them to bring in their assessments on a certain day (c).

The Commissioners should also direct the assessors at the same time to return the names of two persons to act as collectors, for whose due payment of the sums collected, the parish or place in which they act is to be answerable. The Commissioners are also to tax and assess every assessor for the duties to which he may be liable under the Act (38 Geo. III. c. 5, s. 44). The assessors are required to deliver, at the time and place prefixed for their appearance, one copy of their respective assessments, subscribed by them (d), to the Commissioners, who thereupon are to sign and seal two duplicates of the same, and cause one of them to be delivered to the persons whom they appoint to be collectors, furnishing them at the same time with a warrant for collecting the several sums therein assessed. Commissioners are then to give to the collectors notice of the times and places when and where they will be ready to hear and determine the appeals of persons who may think themselves overrated by the assessors; which appointed days are to be at least thirty days from the time of delivering the duplicates to the collectors. The collectors are required, within ten days after receiving such notice, to

<sup>(</sup>c) The whole of the Land Tax charged upon any place must be inserted in the certificate of assessment (notwithstanding the discharge of any portion thereof), so long as any part remains payable (42 Geo. III. c. 116, s. 180). When, however, in any place separately assessed, the whole of the Land Tax has been exonerated, the assessment is to cease (ib. s. 182).

<sup>(</sup>d) It is indispensable to the validity of the assessment that both assessors should sign it.

give public notice thereof in writing, to be affixed upon or near the door of the parish church or chapel of ease on the Lord's day. They are also to inform any person intending to appeal, that the Act requires he should acquaint the assessors of his intention, in order that if they think proper, they may attend to justify their assessment (e). The collectors are further required to permit any person who may think himself overrated, his steward, or other proper representative, to inspect the duplicate of assessment, at all seasonable hours of the day, without demanding any fee or reward (38 Geo. III. c. 5, ss. 7 and 8).

Where any assessment is brought in in an imperfect state, the Commissioners may require the assessors to amend it; but when once an assessment has been signed and allowed by the Commissioners, they have no power to quash it, however unequal it may subsequently prove to be; and any property omitted to be assessed cannot be brought into charge until the ensuing year, except upon the appeal of a person who proves that he has been overrated, in which case the property left out may be added to the assessment.

No appeal can be heard until the assessment has been signed and sealed by the Commissioners (f).

- (e) It will be observed that the Act is not imperative with respect to the attendance of the assessors in order to support their assessment.
- (f) By sect. 57 of the T. M. A., it is provided that "no barrister, solicitor, or attorney, or any person practising the law, shall be allowed to plead before the District Commissioners on appeal for the appellant or officers, either viva voce or by writing." This provision applies only to the Income Tax, and does not apply in

Upon any person proving, to the satisfaction of the Commissioners, that the assessment made upon him exceeds the equal pound rate which ought to be charged upon him, the Commissioners, or the major part of them, may reduce his assessment so much as exceeds such equal pound rate; and they are thereupon required to re-assess the amount of such reduction upon the parish, or upon such persons therein, as may appear to be undercharged (s. 84).

Appeals once heard and determined by the Commissioners, or by the major part of them present on the days appointed for hearing appeals, are to be final, without further appeal upon any pretence whatever (s. 8).

All questions and differences touching any assessments are to be heard and finally determined by the Commissioners, upon complaint by the party aggrieved, without further trouble or suit at law in any Court whatsoever (s. 23) (g).

any case to the Land Tax, nor to proceedings for Penalties before District Commissioners of Income Tax.

(g) Upon any doubt or dispute arising as to the division, parish, or place, where lands, &c., are legally liable to be assessed, power is given by 1 & 2 Vict. c. 58, to the Court of Exchequer (now the Queen's Bench Division of the High Court of Justice), upon application being made by or on behalf of the owner or occupier of such lands, &c., to call upon the Commissioners who made the assessments to appear and maintain, or relinquish them, so far as they relate to the lands, &c., in dispute.

The Court may stay all proceedings instituted against the party assessed, for compelling payment, or order the amount claimed to be paid into Court, to abide the determination of the dispute; and such Court may also award to the applicant the costs of application, to be defrayed by assessment on the lands, &c., chargeable to Land

Where a controversy arises respecting any assessment, or the payment thereof, which may concern any of the Commissioners appointed for the purposes of the Act, the Commissioners so concerned in the controversy, in their own right, or in the right of any person for whom they act as agents, can have no voice in the debate, but must withdraw, under a penalty not exceeding 201, until it be determined by the rest of the Commissioners (s. 23).

The property of public books and papers relating to the Land Tax is vested in the Commissioners, and they are to remain as records in their custody, or in that of their clerk for the time being (s. 15); and persons having them in their possession are to deliver them up within one calendar month after receiving from the Commissioners notice in writing to that effect, under a penalty of 50l. (s. 16).

By sect. 36 of the T. M. A., the Commissioners of Land Tax, acting for any county, shire, or riding, are

Tax in the division, parish, or place, with reference to which the doubt or dispute arose.

An application was made to the old Court of Exchequer, under the above Act, for a rule calling upon the Commissioners of Land Tax for the hundred of Norman Cross, in the county of Huntingdon, to appear and maintain, or relinquish, their assessments to the Land Tax in the parish of Glatton, made upon the applicant, when a question arose whether the powers given by the Act refer to cases where owners or occupiers of lands are twice rated for the same lands, or are restricted to cases in which distinct assessments are made upon the same property by separate and conflicting bodies of Commissioners, and it was held that the Act applies only to the latter, the remedy in the former case being given by 38 Geo. III. c. 5, s. 23. In re Glatton Land Tax, 6 M. & W. 689.

empowered, at any general meeting, if and as they see fit, to transfer the jurisdiction of any parish, township, hamlet, &c., from one hundred or division to any other in the same county, together with the quotas payable by them respectively at the time of such transfer; or to create any new division.

The proposal of such transfer, or creation of a new division, must be certified to the Commissioners of Inland Revenue, and is subject to the approval of the Lords of the Treasury, which approval, when given, is to be certified to the District Commissioners by the Commissioners of Inland Revenue, who will at the same time also certify the amount of the quotas to be assessed and levied on the parishes, &c., to be so transferred.

The Act does not, however, authorize the alteration of the limits or jurisdiction of any of the cities, boroughs, cinque ports, towns, and places, for which separate and distinct quotas of Land Tax are fixed by the 38 Geo. III. c. 5.

The Act 5 & 6 Vict. c. 37, after directing (sect. 3) (h) that certain parishes, or places or parts thereof, which are detached from the main body of the several counties to which they respectively belong (and which parishes, &c., are enumerated in the schedule of such Act), should be transferred to the jurisdiction of the Commissioners of Land Tax for the counties in or near which they are locally situate, gives power to the Commissioners of Inland Revenue to transfer the jurisdiction over similar detached

<sup>(</sup>h) By sect. 7 of the T. M. A., a reference is here to be made to that Act.

parishes, &c., not specifically provided for by the Act, and also enables them to form new divisions out of such parishes, &c., as they may think fit. In such cases the Commissioners who hitherto charged and assessed the parish or place to be transferred are required to certify the amount of the Land Tax assessed on such parish, or place or part thereof, in the year ending on the 25th March preceding the proposed transfer; and the Commissioners under whose jurisdiction the parish, &c., is transferred are to cause the same amount of Land Tax so certified to be yearly charged, assessed, and levied upon such parish, or place or part thereof, as aforesaid, subject to redemption under the provisions of the Acts passed in that behalf (s. 6).

By sect. 37 of the T. M. A., two or more parishes, townships, tithings, hamlets, or places (extra-parochial or otherwise) may be united for assessment and collection, and considered as one parish or place; but such union does not involve any alteration or fusion of the quotas of Land Tax on such parishes (i).

(i) If it be subsequently found that such "union" is inconvenient it may be dissolved by the Treasury at the request of the District Commissioners.

By the 41 Vict. c. 15, s. 16, the assessment and collection of Land Tax in Serjeants' Inn are transferred to the Commissioners for the City of London.

# PART V.

#### COLLECTION.

By the T. M. A., s. 82, the Land Tax is payable on or before the 1st of January in every year.

The collectors are required to demand the sums set forth in the duplicate of assessment delivered to them, from the several parties named therein, if they can be found at the place of their last abode; or upon the premises charged with the assessment (38 Geo. III. c. 5, s. 9). Upon refusal or neglect of payment, the collectors are authorized to levy the sums assessed, by distress and sale of the goods and chattels of the defaulters (s. 17), whether upon the premises or elsewhere within the jurisdiction of the Commissioners who allowed the assessment and signed the collector's warrant (a).

(a) Where a collector, having made a demand for Land Tax upon the premises charged, at a time when the party liable to pay was absent from home, and not upon the party himself, distrained immediately after making such demand, the distress was held to be unlawful; for that, before he distrained, he was bound to allow a reasonable time to elapse after making the demand, in order that the party liable to pay the tax might have an opportunity of complying with the demand. Gibbs v. Stead, 2 B. & C. 528; 2 M. & R. 547. See Charleton v. Alway (Case No. 1), reported in Appendix, p. 126.

The collectors are also empowered to distrain upon any goods found on the premises assessed, to whomsoever they may belong; and after obtaining from the Commissioners a special warrant for the purpose, may break open, in the day-time, any house or any chest, trunk, box, or any thing found on the premises, containing any goods upon which distress can be made, calling to their assistance the constable, tithing-man, or headborough of the place (s. 17)  $(\delta)$ .

If any lands or premises assessed be unoccupied, and no distress can be found thereon, the deficiency must be made good by re-assessment on the parish, &c. (s. 18). In such cases, however, the collectors may, at any time after, enter and distrain, when any distress can be found, and distribute the money thus raised, proportionably to the parties who contributed to the tax upon such unoccupied lands (s. 40).

Where any woodlands are assessed, and no distress can be had, the collectors, under warrant given by the Commissioners for such purpose, may at seasonable times in the year, cut and sell so much of the wood growing thereon (timber trees excepted) (c) as will pay the amount of as-

- (b) A collector of Land Tax cannot break open a house for the purpose of taking such distress without the assistance of such constable, &c.: Foss v. Racine, 4 M. & W. 419; 1 H. & H. 403; 8 C. & P. 699.
- (c) Oak, ash, and elm are timber trees, after the age of twenty-one years, throughout the realm: Co. Lit. 53 a; Dy. 656 (see 8 T. R. 145); and beech, willow, hornbeam, &c., where they are scarce, may be accounted timber by the custom of the country: Co. Lit. 53 a; R. Moor. 812.

In the county of York birch-trees are considered timber,—vide Lady Cumberland's case, Moore, 813—and in Hampshire willows sessment due, and the charges occasioned by the non-payment thereof (s. 41).

When the duty in arrear is for tithes, tolls, profits of markets, fairs, fisheries, or other annual profits not distrainable, the Commissioners may also empower the collectors to seize and sell so much of the tithes, tolls, &c., wheresoever they can be found, as will cover the amount in arrear and expenses incurred (s. 42).

Where a collector advances and pays over to the proper officer a portion of his own money on account of Land Tax assessed on any other person, he may (T. M. A., s. 87), at any time within six months after such payment, collect and levy the same in the usual course.

By T. M. A., s. 20, the District Commissioners have power to defend any action brought against a collector for anything done in pursuance of the Land Tax Acts, where the collector has been appointed by them, and the costs and charges attending the same shall be defrayed by an assessment, &c., in the parish in or relating to which the alleged cause of action shall have arisen.

In the event of any dereliction of duty on the part of a collector, the Commissioners have power to impose penalties (38 Geo. III. c. 5, s. 19; and 53 Geo. III. c. 142, s. 7) (e).

are timber. Layfield v. Cooper, 1 Wood, 330; Gruffly v. Pindar, Hob. 219.

(e) It is the practice for these penalties to be recovered in the usual way before the District Commissioners, viz., by information and summons. See also p. 50, and as to assessor, p. 39.

The office of collector is not now, under certain conditions, a compulsory one. (T. M. A., s. 73 (3).)

In many districts owing to the increase of buildings or rise in the value of property, it has been found impossible, in assessing the amount of the quota in charge thereon, to apportion the pound rate among the inhabitants without exceeding such quota in the aggregate of the assessments.

A few words are here necessary with regard to "Surplus Land Tax."

In order, as much as possible, to guard against the pound rate being maintained unnecessarily high (f), and to provide for the application of the surplus for the benefit of the parish, &c., where it may arise, it is enacted by sect. 114 of the T. M. A. that, in any parish or place where the assessment shall exceed by 5l. the amount of the quota payable by such parish, &c., the District Commissioners shall, on or before the 24th December following the year of assessment (g), cause to be prepared and transmitted to the Commissioners of Inland Revenue a certificate under their hands, containing the amount of the quota in charge upon the parish, the actual amount of the assessment delivered to the collectors, together with the amount of the sum by which the assessment exceeds the quota. and the amount of such excess (if any) which has been collected previously to the transmission of the certificate. The excess so arising upon the assessment is then required to be paid to the Commissioners of Inland Revenue.

<sup>(</sup>f) But see case of Simpkin v. Robinson, in Appendix. (See p. 23, note (g)).

<sup>(</sup>g) The year of assessment is from the 25th day of March to the following 24th day of March, inclusive.

and by them to the National Debt Commissioners, to be applied in the redemption of Land Tax chargeable upon the parish wherein the excess arises.

If such excess of or surplus Land Tax does not amount to 5*l*. in any parish, the District Commissioners are empowered by 53 & 54 Vict. c. 21, to award the same to the assessor.

It may be here observed, with regard to Collectors of Land Tax generally, that most of the penalties they may incur are recoverable before their own District Commissioners (T. M. A., s. 121 (1, 2, 3, 4)); but there is now one important exception (sub-sect. 5) to this observation with regard to a Collector who collects Land Tax not charged, or more than charged, in his duplicate of assessment, or who does not pay over all the Land Tax he collects: the penalty of 100*l*. for every such offence is recoverable in the High Court.

# PART VI.

AS TO THE RELIEF FROM DOUBLE LAND TAX CHARGED ON ESTATES NOW OR FORMERLY HELD BY ROMAN CATHOLICS.

In the year 1692 was passed the Act 4 Wm. & Mary, c. 1, intituled "An Act for granting to their Majesties an aid of four shillings in the pound, for one year, for carrying on a vigorous war with France." A new valuation of the lands throughout the kingdom was at the same time directed to be made, in order that they should be assessed at their full value, and to provide a basis for future taxation.

The 37th section of this Act (a) directed that the manors, lands, &c. of every Papist, or reputed Papist, of the age of sixteen years, or upwards, who refused to take the oaths required by the 1st Wm. & Mary, sess. 1, c. 8 (b), should be charged with, and assessed in, double the pound rate granted by the Act; viz., a pound rate of eight shillings in the pound for every twenty shillings of the then annual value thereof. Five Acts succeeded, each containing a similar clause for doubly assessing Papists, of sixteen years or upwards. Then followed the Act 9 & 10

<sup>(</sup>a) In the Parliamentary copies of the Act it is the 34th section.

<sup>(</sup>b) "An Act for the abrogating of the Oaths of Supremacy and Allegiance, and appointing other Oaths."

Wm. III. c. 10, differing from the former Acts, in directing that a fixed sum, viz., £1,484,015: 1s.  $11\frac{3}{4}d$ . should be raised, by a three-shilling pound rate, for the service of the year, and that such amount should be levied upon counties, &c. in the proportions therein specified. The next Act, the 10 & 11 Wm. III. c. 9, directed the like amount to be raised, but required that the quotas set against each county, &c., as therein mentioned (s. 6), should be levied according to the proportions which were assessed upon the same counties and districts in the fourth year of William and Mary. The clause for doubly rating Papists who refused to take the oaths was also inserted in this Act.

From this time each annual Land Tax Act directed a certain quota to be raised (naming the pound rate), and that the proportions levied in each district by 4 Wm. & Mary should be adhered to. Owing to these annual assessments being governed by the Act of 1692 (4 Wm. & Mary, c. 1), it was soon found necessary to give legislative relief to Protestants becoming possessed of estates previously held by Roman Catholics; the new possessors not being, of course, liable to the penal tax.

Such relief was accordingly provided for at an early part of the reign of Queen Anne, by the introduction into the annual Land Tax Acts of clauses which directed that the double rate should be taken off estates coming into the hands of Protestants, and cast upon the parish at large; and where the assessment upon the parish became, in consequence, increased beyond the rate granted by the Act of the year, power was given to the then Court of Exchequer,

upon production of certificates from the District Commissioners, and evidence of the over-rate, to discharge the excess from the duplicate, and reduce the quota by such amount.

Now, although this mode of relief might have proved effective within a period not far removed from the passing of the 4th Wm. & Mary, when the valuation thereby directed was made (for, assuming it to have been a full valuation, nearly the whole of such double rate would then have been in excess of the parochial quota); yet, by reason of the gradual diminution in the value of money, and the great and progressive increase in the annual value of land, and from the circumstance of the value by which relief was to be estimated being always the value of the day at which the relief was sought, the beneficial operation of the Act became, in course of time, sensibly lessened, until it ceased to afford the parish any relief whatever.

In the year 1791 was passed the 31 Geo. III. c. 32, repealing certain penal enactments affecting Roman Catholics, when a committee of Roman Catholic noblemen and others, communicated with Mr. Pitt, with the view of obtaining the remission of the double Land Tax charged on the estates of Romanists. Upon this application being entertained, the mode resorted to for affording the desired relief was the omission in the annual Land Tax Acts (that of 1794, the 34 Geo. III. c. 8, being the first) of the clause imposing the double charge upon Roman Catholics, and the introduction of other clauses, declaring all lands thenceforth liable to a single assessment only, and rendering of universal application, for the

relief of the parishes where estates doubly charged existed, the before-mentioned provision hitherto restricted to cases of Protestants succeeding to lands of Roman Catholics (vide 34 Geo. III. c. 8, ss. 82, 113 and 114).

It is worthy of observation that the causes which, as before shown, had already virtually nullified this latter remedial measure, were, upon this occasion, so entirely overlooked as to allow of such an enactment being still considered available for the attainment of the desired object.

All lands in a district being at this time indiscriminately liable to an equal pound rate assessment, certain Roman Catholic proprietors obtained relief from the double tax, under the general powers of appeal from unequal assessments, which were contained in each Act, from the first imposition of the Land Tax; and the relief thus given was distributed over the lands of the other landowners of the district. In cases, however, where the person doubly rated possessed the greater part of the land in a parish, the larger portion of the tax was re-distributed upon himself.

Consequently, this mode of relief was ineffective, as regarded the Roman Catholic proprietor, and unjust towards the Protestant owner, who thereby was rendered chargeable with a burthen the Legislature never intended him to bear.

This restricted source of relief became shortly afterwards even more circumscribed by the operation of the Land Tax Redemption Act (38 Geo. III. c. 60), passed in the year 1798, as upon the exoneration of any lands

in a parish by redemption of the tax charged thereon, the area for the distribution of any relief which might be extended to holders of estates doubly assessed was proportionately reduced. The hardship also which resulted to the Protestant landowner, who either neglected or was unable to redeem his Land Tax, is at once apparent.

No steps appear, however, to have been taken to provide a more equitable form of relief until the year 1828, when a Select Committee of the House of Commons was appointed to inquire into the alleged grievances of persons doubly rated to the Land Tax, in consequence of the double charge formerly imposed on Roman Catholics; and the passing (in September, 1831) of the Act 1 & 2 Wm. IV. c. 21, was the result of their investigation and report.

This Act, after reciting that, by reason of the provisions of the Act for making the Land Tax perpetual, subject to annual assessment in respect of the proportions unredeemed, doubts had arisen whether the power of relief from the double rate of Land Tax upon estates of Roman Catholics, given by the Acts in and prior to 1798, by application to the (then) Court of Exchequer, was then in force, and that difficulties had also arisen with regard to the manner and form of obtaining relief, by reason of the great variation and increase in the annual value of lands. and of the proportions of Land Tax which had been redeemed or exonerated from assessment, enacts that in all cases of assessment for any year commencing, where any manors, lands, tenements, &c., which shall have a proportion to raise by virtue of the 38 Geo. III. c. 5, are charged with a double rate, by the valuation and assessment of the

same manors, lands, &c., for the former aid of four shillings in the pound, made in pursuance of the Act 4 Wm. & Mary, c. 1, and such estates have not, under the powers of any of the subsequent Acts, been made liable to a single assessment only—it shall be lawful for the Commissioners of the Land Tax for the respective counties, districts, or divisions, where such lands, &c., are situate, upon complaint thereof before them being first made by or on behalf of the owner or occupier of the same, to examine into the matter of such complaint, and after satisfying themselves of the truth thereof (c), to certify, in writing

(c) For which purpose, the Act directs them to inspect the necessary assessments, and to require the production of an office copy of the registry of the estate with the Clerk of the Peace of the county, where situate; which registry was made in pursuance of the Act 1 Geo. I. sess. 2, c. 55, intituled "An Act to oblige Papists to register their names and real estates."

It may be observed, that although the circumstance of the re-: gistry with the Clerk of the Peace of an estate as the property of a Roman Catholic affords a strong presumption that it was doubly assessed (especially if it appears to have been rated higher than the estates adjoining it), such registry would not of itself suffice to justify the District Commissioners in granting a certificate under the Act.

As upon the omission in the annual Tax Acts of the penal clause, relief (however slight in many instances) was afforded to some proprietors, by a distribution of part of their double tax upon the rest of the parish, and as the estates of such persons are, in consequence, excluded from the benefit of the 1 & 2 Wm. IV. c. 21, it is required by such Act that the amount in charge upon the estate, at the time of claiming relief, should correspond with that borne by it before the repeal, in 1791 (by 31 Geo. III. c. 32), of the Act requiring the registry of the estates of Roman Catholics, unless, where a variation has taken place, the difference can be shown not to arise from any relief given.

under their hands, to the Lords of the Treasury, the names of such owner or occupier, and the amount of the over-charge upon him, which certificate, attested by their clerk, is to be transmitted to the Commissioners for the Affairs of Taxes (d), and must be in the following form:—

We, the undersigned, being the Commissioners of Land , in the Hundred of Tax for the . in , do hereby certify that we have heard the county of the complaint of , touching the assessment of the complainant's estate to double Land Tax, in the said and that the said assessment, a true copy whereof is hereunto annexed, doth exceed, by the sum of , the just proportion which would have been charged on the said estate, in case the said estate had not been the property of a person who refused to take the oaths required by an Act, passed in the fourth year of the reign of their Majesties King William and Queen Mary, intituled "An Act for granting to their Majesties an Aid of Four Shillings in the Pound, for one year, for carrying on a vigorous war with France."

(Here add a true copy of the assessment.)

The Lords of the Treasury, or the Commissioners of Taxes (d) under their authority, upon being satisfied of the accuracy of such certificate, may empower the Commissioners of the district to which such certificate relates, "to discharge the sum, or sums, of money so certified, or such part thereof as shall appear to be double Land Tax, from all future assessments." It is, however, provided that the relief granted by the Act shall not extend to double Land

(d) Now Commissioners of Inland Revenue.

Tax charged on any manors, lands, &c., purchased by any person for a valuable consideration, subject to such double Land Tax, as a charge or incumbrance on such estate, or any part thereof; nor can any person so deriving an estate claim the benefit of the Act. It is also provided that no discharge of the double Land Tax for any year shall be granted, unless the above-mentioned certificate of the District Commissioners be transmitted to the Commissioners for the Affairs of Taxes (e) on or before the 10th of October in such year.

A power of appeal to the Court of Exchequer (f) against the decision either of the District Commissioners or of the Commissioners of the Treasury, is likewise provided (sect. 2), the appellant first giving ten days' notice at least of his intention so to do to the Commissioners of the district, if he be dissatisfied with their decision, or to the Commissioners for the Affairs of Taxes (e), or their Solicitor, in any case where the intended application to the Court relates to the determination of the Lords of the Treasury.

<sup>(</sup>e) Now Commissioners of Inland Revenue.

<sup>(</sup>f) Now Queen's Bench Division of the High Court.

## PART VII.

#### REDEMPTION GENERALLY.

Before considering the interests acquired under these Acts, it will be desirable to take a brief survey of the measure for the redemption of the Land Tax, and trace the different phases through which it has passed.

Introduced by Mr. Pitt in the year 1798, its essential principle was to diminish the pressure of the public debt in the market, by causing the absorption of a large amount of stock, thereby increasing the value or price of what remained, and consequently enabling the Government to borrow on more advantageous terms. In the preamble of the Redemption Act, the scheme is declared to be intended "materially to conduce to the strengthening and supporting the public credit, and augmenting the national re-This was to be effected by employing the money required for the redemption of the tax, in the purchase of 3 per Cent. Consolidated or Reduced Bank Annuities, to be transferred to the Commissioners for the Reduction of the National Debt. As the Land Tax when levied and paid into the Exchequer was applied towards the liquidation of the interest of the debt, the annual amount lost to the revenue by redemption was thus balanced by a proportionate cancellation of capital stock.

At the time when the measure was brought into operation, the annual amount of tax made redeemable was calculated at about 1,860,000%; and if the whole had been redeemed at the then price of the Funds, about 70,000,000% of stock would have been withdrawn from the market. In fixing the price of redemption, it was considered reasonable that a small profit, beyond the amount of the tax redeemed, should be secured to the public to defray the expenses of the measure, for which the individuals redeeming would be compensated, it was presumed, by their property being thus relieved from liability to increased assessments of the tax.

It was consequently enacted that the amount to be paid should be so much stock in the 3 per Cent. Consolidated or Reduced Bank Annuities, as would yield a dividend exceeding the Land Tax to be redeemed by one-tenth part thereof. Supposing the tax to be redeemed amounted to 10l. stock sufficient to produce 11l. per annum was required, viz.: 366l. 13s. 4d.

The Act for carrying out the scheme was the 38 Geo. III. c. 60 (a), which was passed the 21st June, 1798. The first section made perpetual, subject to redemption and purchase in the manner therein stated, the sums charged by the Land Tax Act of that year (38 Geo. III. c. 5) upon the

<sup>(</sup>a) Although the whole of this Act, except ss. 1 and 2, have been repealed, and therefore those sections alone are to be found in the revised edition of the statutes, yet the saving clauses in the Act 42 Geo. III. c. 116, expressly reserve all the powers, &c. of the Contracts entered into under the old statute. As many of these Contracts are still in existence, the former statute must be referred to here.

several counties, ridings, stewartries, cities, boroughs, cinque ports, towns, and places in Great Britain, in respect of all manors, messuages, lands, tenements, and hereditaments; and all the provisions of the Land Tax Act were also perpetuated in regard to the quotas of Land Tax so fixed.

By sect. 2, the sums charged on personal estates, offices, and pensions, were excepted from the provisions of the Act, and were to be raised by Acts to be passed for that purpose.

The two leading features of the Act were-

1st. The redemption of the Land Tax by persons having an interest in the lands on which it was charged.

2nd. The sale thereof by the Government to strangers, upon the refusal or neglect of the persons interested to redeem it

Upon redemption the Land Tax was to merge in the estate.

Where persons possessing an interest in the lands refused or neglected to redeem the tax within a given time, it was intended to permit strangers to purchase, as a rentcharge, the Land Tax assessed upon the estates of the persons so refusing (38 Geo. III. c. 60, ss. 68, 69, and 70), the Government undertaking to collect and pay it over to such purchasers (s. 77) (b).

Such strangers, however, were only to have the benefit of this investment until the Old Sinking Fund had reached

(b) The rate of purchase was higher than the rate of redemption; the stock to be transferred was to yield a dividend exceeding by one-fifth instead of one-tenth the value of the Land Tax purchased (s. 70).

the highest accumulation allowed by 26 Geo. III., at which period the right of redemption, by the owners of the lands charged with such purchased Land Tax, was intended to be revived; whereupon the Government were to repay to such purchasers the consideration given by them for the Land Tax so bought (ss. 92, 93, and 94).

This latter part of the scheme was not, however, carried out, in consequence of the period allowed by the Act for the redemption, by persons interested, having been extended from time to time by subsequent Acts, until the passing of the 42 Geo. III. c. 116, when the purchase of Land Tax from Government was placed upon a totally different footing.

Although this *leasing*, as it were, of part of the Land Tax by the Government was not put into execution, it is essential that the powers given for the purpose should be borne in mind, in order to guard against the error of confounding it with the *sale* of Land Tax by persons who, redeeming under the circumstances presently detailed, had the power of disposing of the same as a marketable rent.

This distinction is the less readily recognised by reason of several of the provisions, framed for regulating the proposed sale of Land Tax by the Government, having been rendered applicable to cases of sale of the tax by private persons, and though never in operation for the former object, are still in force with respect to the latter.

The Act also divided the persons entitled to redeem into two classes, viz.:—

Those in possession.

Those in remainder, reversion, or expectancy.

To the former a benefit of preference was given until the 25th December, 1798, when the right of the latter was to commence and continue until the 25th March, 1799; But if the persons entitled to preference gave notice of their intention to waive it, those next entitled in the order of succession might redeem.

The execution of the Act was at first confided to Commissioners appointed by the King, under the Royal Sign Manual; who were selected from the general body of Commissioners of Land Tax throughout the country (s. 4).

They were to contract with all bodies politic and corporate, and companies, whether corporate or not corporate, and feoffees, or trustees for charitable or other public purposes, and all persons entitled to redeem (c), for the redemption of the Land Tax on their respective estates.

They were also invested with authority to approve and regulate all sales and mortgages of lands or grants of rent-charges which the Act empowered the said bodies politic, &c. to effect for the purpose of raising money to redeem Land Tax.

Soon after the passing of the first Redemption Act, it was found necessary to alter, modify, and enlarge the powers thereby created, and several statutes were accordingly passed for that end. These statutes, as before observed, extended from time to time the benefit of preference in redemption, which the first Act accorded to

<sup>- (</sup>e) Tenants at rack rent or of Crown Lands, or holding under the Duchies of Cornwall or Lancaster, were not entitled to contract.

persons in possession over those in remainder, and again to the latter over strangers. An alteration was also made with respect to the mode of providing the consideration for redemption. To remedy the inconvenience of purchasing stock in cases where the tax redeemed was of small amount, a provision was inserted in the 39 Geo. III. c. 6, empowering persons whose Land Tax did not exceed 251, to redeem the same by payment of so much money as would purchase the like amount of stock, which they must have transferred, if they had elected to effect their redemption by a transfer of stock.

A more special and exclusive jurisdiction was also established for regulating and approving sales made by ecclesiastical and corporate bodies, and seven persons, members of the Privy Council, were accordingly appointed under the Great Seal to act as Commissioners for the purpose (d) (39 Geo. III. c. 21). These Commissioners were subsequently invested with authority to direct all mortgages or grants of rent-charges by bodies politic or corporate, or companies, and all sales, &c. by feoffees or trustees for charitable or other public purposes (e).

Then followed the Act 42 Geo. III. c. 116, which con-

<sup>(</sup>d) The Commissioners appointed were—William Lord Auckland, the Right Hon. Henry Addington (then Speaker of the House of Commons), the Right Hon. William Pitt, the Master of the Rolls (afterwards Lord Alvanley), the Right Hon. Sir William Wynne, the Lord Chief Baron, and the Right Hon. Sylvester Douglas (afterwards Lord Glenbervie).

<sup>(</sup>e) By 1 & 2 Vict. c. 58, the powers exercised by these Commissioners were transferred to the Lords of the Treasury.

solidated most of the provisions of previous Acts, and repealed the enactments not embodied therein; but continued in force the provisions applicable to contracts already entered into; also those relating to sales, mortgages, &c. effected up to the period of the passing of that Act, and confirmed all rights and interests acquired under former Acts. Various statutes were subsequently passed for amending and extending the powers given by the Act 42 Geo. III. c. 116, and for making further provision for facilitating the redemption of the tax. The modifications effected by these enactments, and the further interests they created, will be found duly noted in the course of the review of the different rights to which the owners. and occupiers of land have become entitled from time to time, under the operation of the Redemption Acts; and when it is remembered that the amount of Land Tax redeemed up to the present time (1852) represents an outlay on the part of the public of about twenty-eight millions, some estimate may be formed of the magnitude of the interests in question.

As the quotas of Land Tax made perpetual upon parishes by the 38 Geo. III. c. 60, were to be thereafter annually assessed by an equal pound rate upon the unredeemed lands situate therein, any increase in the value of property in a parish, from the inclosure of commons, the multiplication of buildings, &c. would obviously reduce in the same ratio the poundage rate upon such parish. Unless, therefore, some provision had been made for compensating redemptioners upon such a diminution taking place, no redemption would probably have been effected.

in parishes where any considerable improvement was at all in prospect; no one, for instance, being likely to redeem a Land Tax of 10*l*., with the chance of its proximate reduction to 8*l*.

# "LAND TAX REDEEMED, BUT NOT EXONERATED."

To encourage persons to redeem, and to meet cases such as those last referred to, it was enacted that persons redeeming their Land Tax might require that it should be dealt with in the same manner as the Act purposed to treat Land Tax purchased—that is, the charge was to be kept on foot, the person so redeeming to have the power of selling or assigning it, the Government being pledged to collect it, and pay it over to the persons so becoming entitled to the amount.

The 17th section of the before-mentioned Act of the 38 Geo. III. c. 60, consequently directed that any person desirous of redeeming upon the above understanding should, at the time of entering into his contract, declare his option to be considered in the light of a purchaser, which declaration was to be inserted at the end of the contract in the following words:—"And the said A. B. hath declared his option to be considered on the same footing as a person not interested in the said lands is by the said Act considered."

Land Tax so redeemed is designated "Land Tax redeemed, but not exonerated." Land Tax redeemed under a contract of this description is continued in assessment, as if it had not been redeemed (sect. 180 of 42 Geo. III.

c. 116); it is to be paid by the occupier of the land, and the redemptioner, his executors, administrators, or assigns, are invested with all the rights and powers to receive and recover the full amount of such Land Tax, which the Act conferred upon an original purchaser (s. 17) (f).

Payment is to be made to the redemptioner, his executors, administrators, or assigns, by the collector or receiving officer of taxes for the county, of the full amount of such Land Tax, free of all charges and deductions whatever (ss. 72 and 78). In fact, the Crown may be said to hold the position of a trustee for the representatives or assignees of the first redemptioner.

Proprietors for the time being of any such Land Tax may sell, dispose of, and transfer the same, the Assignment to be in the form marked D in the schedule of the Act(g); which Assignment must be produced to the Registrar of Land Tax, who is required to enter a memorial thereof, to certify such entry by indorsement thereon, and to notify to the receiving officer the name of the party entitled to receive such Land Tax (s. 78).

Where any person becomes entitled to such Land Tax by marriage, or as executor or administrator, the registry of the marriage, probate of the will, letters of administra-

<sup>(</sup>f) The Act gives them power to recover the amount by distress, in the event of either the receiving officer or collector making default (sect. 82), an almost superfluous security, the Government being, of course, answerable for the claim.

<sup>(</sup>g) The exemptions from Stamp Duty on assignments under sect. 110 of this Act, and sect. 173 of 42 Geo. III. c. 116, are expressly saved by sect. 3 of the Stamp Act, 1870.

tion, or other instrument under which he is so entitled, must in like manner be produced for registry (s. 78) (h).

The receiving officer paying such Land Tax to the person who appears by the registrar's entry or certificate to be entitled thereto, is indemnified, notwithstanding any defect of title in the person receiving it (s. 84).

Land Tax of this description is to be deemed personal estate, and not of the nature of real estate (s. 99) (i).

As the lands upon which the Land Tax has been thus redeemed, but not exonerated, are subject to annual assessment with the unredeemed lands in the parish, and the Land Tax is consequently liable to variation, according to the fluctuation of the relative value of the lands, the Act

- (h) Land Tax redeemed under 17th section with option declared, was bequeathed by will to a married woman. Afterwards the husband, having registered his marriage in the Land Tax Office in the manner required by the 78th section, mortgaged the tax—he (by a deed of even date) covenanting to pay the mortgage debt, and reserving the equity of redemption to himself alone. The wife survived:—Held, that the husband of a proprietor of Land Tax upon registering the marriage under the Act acquires an absolute power of disposition over it: Held, further, that as the husband in this instance had disposed of the Land Tax only to the extent of the mortgage debt—the right of the surviving wife to the property, subject to payment of the debt, was not alienated. Pigott v. Pigott, 4 Eq. Rep. 549.
- (i) Consequently, upon conveyance of any estate, whereupon the Land Tax has been redeemed, subject to the like option, a specific assignment (in the form D in the schedule of the Act) is necessary to vest such Land Tax in the assignee; as the general words of a conveyance will not pass it. Owing to misconception on this point, the production of the necessary documentary evidence of the title to such Land Tax has been attended, in some instances, with considerable difficulty and inconvenience.

provides that, upon any abatement of the Land Tax so redeemed taking place, the person entitled may, at his option, demand the difference from the receiving officer, or receive back a proportionate amount of the capital stock originally transferred for redemption (ss. 82 and 85).

Where persons not having an absolute estate in the property which was the subject of redemption, declared an option at the time of entering into their contract, they hold the Land Tax as an annuity issuing out of the estate, and transmissible to their representatives (s. 37). But reversioners, upon their estate vesting in possession, may demand an assignment of the redeemed tax from the representatives of such redemptioners, upon transferring the same amount of stock to them as was originally transferred on the contract (j); in which case unless the assignee cause the like option to be inserted in the assignment, the lands will become exonerated (s. 18).

In the event of refusal to assign, the Superior Courts of Law in England and Scotland may compel assignment and award costs; and all persons under legal disability or incapacity are enabled so to assign under the direction of such courts (s. 18).

Where a person who had a limited estate did not, at the time of redemption (under sect. 17) declare his option to be considered on the footing of a purchaser, the lands

<sup>(</sup>j) By 39 Geo. III. c. 6, s. 7, Land Tax, not exceeding 25l., might be redeemed by a money-payment; and the 48th section enacts that such Act and the 38 Geo. III. c. 60 are to be construed together as one Act; and by 42 Geo. III. c. 116, s. 91, all persons who have the right to demand such assignment may provide for the same by sale, mortgage, &c., of part of the estate.

(although in such case exonerated from Land Tax) became chargeable for the benefit of the redemptioner, his executors, administrators, or assigns (k), with a sum equivalent to the amount of stock transferred for the redemption of the tax, and with the payment of such yearly sum or sums of money, by way of interest thereon, equal to the amount of the Land Tax redeemed (s. 37) (l).

- (k) In case of assignment of a rent-charge of this description, the form D in the schedule of the Act is not applicable; but the assignment should be made by a common law conveyance.
- (1) The representatives of a deceased incumbent of a rectory who has out of his own estate redeemed the Land Tax prior to 1799, are entitled to recover from the succeeding incumbent the interest of the purchase-money at the rate of 31. per cent. on such purchase-money. Kilderbee v. Ambrose, 10 Exch. 454; 24 L. J. Ex. 49. Quære, whether the principal is also a charge on the living capable of being enforced by a sale in Chancery. Semble, it is not.

Owner of a leasehold interest redeemed the Land Tax without declaring the option:—Held, that there was no merger of the charge, but that he was owner of a specific charge on the premises. Nean v. Moorsom, 37 L. J. (N. S.) 274.

The guardians of an infant tenant in tail of lands redeemed the Land Tax without declaring their option. Subsequently the lands became vested in fee in Sir William Stanley, who conveyed them to trustees and their heirs upon trust for sale for his benefit. The trustees by his direction purchased and took a conveyance of "The Land Tax or rent-charge in lieu of Land Tax chargeable upon the lands" upon the like trusts:—Held, that the Land Tax quâtax was extinguished upon its redemption by the guardians; that the rent-charge which remained in lieu of Land Tax was not a statutory tax capable of being enforced by the remedies provided by the Act, but a charge effected by the operation of equity; and that such charge merged upon being conveyed to the trustees. Obiter. Had Sir William Stanley been merely tenant for life of the lands, the legal merger would have had no effect on his equitable

Reversioners are, however, only liable to the payment of such interest from the time of coming into possession (s. 37) (m).

Persons entitled to such interest have the same powers and remedies for the recovery thereof as landlords for the recovery of rent in arrear (39 Geo. III. c. 6, s. 24).

Where persons availed themselves of the powers given by the Act to sell or charge part of an estate, for the purpose of redeeming the Land Tax, and at the time of entering into their contract declared their option to be considered as purchasers, the Land Tax was made attendant on the estate (n), and payable by the receiving officer of the county to the person for the time being entitled to the rents and profits, whose receipt is declared a discharge to such officer (s. 81).

The Act 42 Geo. III. c. 116 (s. 40), enables the executors, administrators or assigns of any person who, at the time of contracting for the redemption of Land Tax, under the 38 Geo. III. c. 60, declared an option to be considered in the light of a purchaser, to exonerate the lands comprised in such contract, by causing the Land Tax to merge in the estate (o).

interest. Bulkeley v. Hope, 1 K. & J. 482; 24 L. J. Ch. 356; 1 Jur. (N. S.) 864.

<sup>(</sup>m) As to power of remainderman to compel assignment of rentcharge, vide note, p. 74.

<sup>(</sup>n) No assignment is therefore, in such cases, necessary to be made to the person in remainder, upon his estate vesting in possession.

<sup>(</sup>o) These powers were, in the first instance, given by 39 & 40 Geo. III. c. 30, s. 12.

Persons desirous of so exonerating their lands should apply to the Commissioners of Land Tax acting for the division or place where the lands are situate, for a certificate, under the hands and seals of two of such Commissioners, of the amount of Land Tax then charged upon the lands. Upon production of this certificate, together with the original contract for redemption (p), to the Commissioners acting in the execution of the Redemption Acts (q), they will, if no variation has in the mean time taken place in the amount of the Land Tax, amend the certificate of the contract by striking out the optional clause (r), and certify their having done so on the back of such certificate. After registry and indorsement in the manner before stated of this certificate, the lands, &c., comprised in the contract will be exonerated from Land Tax from the quarter day next preceding the day whereon such certificate was left at the proper office for registry (42 Geo. III. c. 116, s. 40).

Should the amount of the Land Tax charged upon the lands at the time of seeking such exoneration, be more or less than the amount redeemed by the contract, the Commissioners will rescind the old contract and enter into a new one for the redemption of the Land Tax then charged, omitting the optional clause, and indorsing on the contract a copy of the receipt indorsed on the original contract, given in respect of the consideration paid thereon. Where

<sup>(</sup>p) Or a copy taken from the Register, which is evidence of the redemption (38 Geo. III. c. 60, s. 76, or 42 Geo. III. c. 116, s. 165).

<sup>(</sup>q) Now the Commissioners of Inland Revenue.

<sup>(</sup>r) Vide p. 66.

the Land Tax has been increased the party must transfer so much additional stock, or pay so much additional money, as may be necessary for the redemption of the difference; and where the Land Tax has been decreased he will be entitled to receive back a proportionate amount of stock or money.

The Land Tax, in these cases of its increase or diminution, will also be exonerated from the quarter day preceding the day when the new contract was left for registry (42 Geo. III. c. 116, s. 40) (s).

The power given by the 38 Geo. III. c. 60 (s. 17), to persons having an interest in lands, of declaring, at the time of redeeming the Land Tax, their option to be considered as purchasers, was withdrawn by the 42 Geo. III. c. 116. Under the latter Act, Land Tax redeemed by persons possessed of the fee merged in the estate; but such Act contains provisions respecting persons possessing a less interest than an estate of inheritance in lands, and redeeming the Land Tax out of their own property, similar to those of 38 Geo. III. c. 60, s. 37.

Such persons have a claim on the estate to the extent of the consideration paid for redemption, and for a yearly

<sup>(</sup>s) Were these powers of exonerating properties from Land Tax more generally known, especially in cases where such Land Tax exists in the shape of an incumbrance on the estate, few persons, it is conceived, would neglect to avail themselves of them; and it may here be observed, that where persons entitled to such Land Tax are also owners of the land charged with it, the exoneration is not attended with any expense.

sum (of the nature of a rent-charge) by way of interest, equal to the Land Tax redeemed (s. 123) (t).

Reversioners, however, are only liable to payment of such interest from the time of their coming into possession; and where reversioners have redeemed the Land Tax, they are likewise entitled to a yearly sum, equal to such Land Tax redeemed, till the estate vests in them (ib.) (u).

- (t) These provisions were repealed by the 16 & 17 Vict. c. 117, s. 2, from the passing of which enactment all Land Tax redeemed absolutely merged in the estate. But sect. 2 of 16 & 17 Vict. c. 117, was repealed by 19 & 20 Vict. c. 80, s. 3. No sum, rent, or rent-charge, therefore, is to be given in respect of any redemption effected between the 20th August, 1853, and 29th July, 1856, during which period the merger clause was in operation.
- (u) It has been held that the person in remainder who has come to the possession of land can compel the assignees of a tenant of a previous particular estate, who has redeemed the Land Tax charged on such land out of his own property, to receive at any time the principal money paid as the consideration for such redemption, with all arrears of interest, and so to free the land from the charge and payment of interest. Cousins v. Harriss and another, Q. B., 12 Jurist, 835.

Where the Land Tax upon any living has been redeemed, either by the patron thereof or any other person, or by a former incumbent out of his own funds, and a claim upon such living exists under this section to the extent of the Land Tax redeemed, the incumbent for the time being may treat with the redemptioner or his representatives for the assignment of such Land Tax for the benefit of the living, for which purpose he may raise money by sale, &c., of part of the glebe (45 Geo. III. c. 77), and where he has obtained such assignment out of his own money, he may reimburse himself by sale, &c. in like manner (53 Geo. III. c. 123, s. 29).

Where an Act of Parliament establishing a railway company authorized the company to purchase lands of corporations, tenants for life, &c., and directed that the purchase-money should be The persons entitled to such sums by way of interest have the same powers for the recovery thereof as are given by law for the recovery of rents reserved on leases (s. 125).

Where any tenant or lessee at rack rent for any term of years or at will is bound by agreement to pay the Land Tax, and it has been redeemed by the corporation, &c., or person beneficially entitled to the rent, the amount thereof during the continuance of such demise is to be considered as rent reserved, with the same powers of recovery (s. 126) (x).

Land Tax which has been redeemed by any bishop or ecclesiastical corporation with any moneys raised for the purpose under powers given by the Redemption Acts, is to be considered as an additional yearly rent on the demise (existing at the time of redemption) and on any future demises, and recoverable as such (s. 88) (y).

No mines or minerals, or seams or veins of coal, metals, or other profits of the like nature, belonging to any manors or lands sold by any bishop or other ecclesiastical

applied in the redemption of the Land Tax upon other parts of the property unsold:—held, that a tenant for life who had redeemed the Land Tax before the passing of the Act might reimburse himself out of the proceeds of the lands purchased of him by the Company. Ex parte Lord Northwick, 1 Y. & C. 166.

- (x) See also 38 Geo. III. c. 60, s. 14.
- (y) In any lease granted after the passing of the Act, the redeemed Land Tax must, in addition to the ancient and accustomed rent, be expressly reserved and made payable during the term granted by the lease. Doe dem. Murray v. Bridges, 1 B. & Adol. 847. See also 39 Geo. III. c. 21, s. 10; 39 Geo. III. c. 43, s. 5; and 50 Geo. III. c. 58, s. 2.

corporation, nor any advowson or right of patronage or presentation to any perpetual curacy, shall pass by any conveyance of such manors, &c., although such advowson may be appendent or appurtenant to the same, as they must always be reserved (s. 80) (z).

Where Land Tax has been redeemed by corporations or feoffees, or trustees for charitable or other public purposes, on copyhold or customary lands, held by lease, it is also to be considered as rent reserved thereout (s. 89).

Such corporations, &c., may contract with their lessees, &c., who have redeemed the Land Tax, for an assignment thereof, and may sell lands, &c., to raise money for the purpose (s. 86).

Where the Land Tax charged upon lands belonging to any bodies politic or corporate (other than bishops or other ecclesiastical corporations), or to any other person, and granted out upon any beneficial lease, or by copy of courtroll or other grant, according to the custom of any manor, for life or lives, or years absolute, or years determinable upon any life or lives, has been redeemed by sale of part of the lands, the unsold parts are chargeable with an annual sum by way of rent-charge equal to the amount of the Tax redeemed (s. 118).

<sup>(</sup>z) See also 39 Geo. III. c. 21, s. 12, when this exception was first made, and also the recent case of Whidborne v. The Ecclesiastical Commissioners for England, 7 Ch. D. 375, where it was held by the Master of the Rolls that where a portion of the glebe lands of a vicarage had been sold to redeem the Land Tax, the surplus moneys could not be applied towards repairs and improvements of the vicarage house.

Where Land Tax has been redeemed by the grant of a rent-charge (under ss. 51 and 69), the person to whom the same is granted has the like remedies as landlords for recovery of rent (s. 116). But no remainderman or reversioner is liable for more than one year's arrears of rent-charge (s. 115).

Where any corporation, &c. or person has redeemed Land Tax on lands, &c. which at the time of redemption were subject to any fee farm or other annual rent, for which a proportion of rate might be deducted under the Land Tax Act (38 Geo. III. c. 5), such proportion can still be deducted, notwithstanding the redemption (s. 127) (a).

Where part of the lands, &c. belonging to one of two consolidated livings has been sold for redeeming the Land Tax on both livings, and the livings become disunited, the incumbent of the living whereof the land has been thus sold is entitled to a rent-charge out of the other living equal to the amount of the Land Tax charged thereon prior to the redemption (53 Geo. III. c. 123, s. 26).

Land Tax which has been redeemed upon lands belonging to the Crown, and the Duchies of Lancaster and Cornwall, is considered as rent, and recoverable as such against the immediate lessees, and by them against the under-lessees (38 Geo. III. c. 60, ss. 55, 63, and 42 Geo. III. c. 116, ss. 141, 149).

By the Act 42 Geo. III. c. 116, persons possessed of an interest in lands, either vested or contingent, were allowed

<sup>(</sup>a) See Moody v. Dean and Chapter of Wells, 1 H. & N. 40; 25 L. J., Ex. 273; 27 L. T., Ex. 82.

until the 24th June, 1803, to elect if they would redeem the Land Tax charged upon the estates in which they held such interest, after which period strangers were permitted to purchase such Land Tax as a fee farm rent issuing out of the lands, and payable, free of all charges and deductions whatever, to the purchaser, his heirs, successors, and assigns (sect. 154) (b). The lands in such case thereupon became exonerated from Land Tax.

Where the Land Tax charged on any lands, &c. demised at a rack rent has been *purchased* by a lessee or tenant not bound by agreement to pay the Land Tax, he may retain a corresponding amount out of the rent (s. 158).

For the purpose of purchasing Land Tax, corporations and companies, or trustees for charitable or other public purposes, were invested (by 53 Geo. III. c. 123, s. 31) with the powers given by the 42 Geo. III. c. 116, for raising money for redemption.

(b) As to the construction of this clause, see Williams v. Steward, 3 Meriv. 472. The purchase of Land Tax to the amount of 40s. entitled the purchaser to vote at an election for a Member of Parliament, and the Act 51 Geo. III. c. 99, declared that it should not be necessary for a person claiming to vote in respect of Land Tax purchased, to have the same or any memorial of the contract or certificate of the purchase thereof, registered, as other fee farm rents and annuities, or memorials thereof, were required by law to be registered before any person could vote at an election in respect of them.

The very limited extent to which persons have availed themselves of this power of purchasing Land Tax as freeholds, must be attributed to its existence not having been generally known. By 16 & 17 Vict. c. 117, the right of strangers thus to purchase Land Tax as a fee farm rent is withdrawn.

Gifts of Land Tax redeemed or purchased, made for the augmentation of any living, are valid, notwithstanding the Statutes of Mortmain (42 Geo. III. c. 116, s. 162).

Under the powers of 57 Geo. III. c. 100 (s. 20), allotments may be made under Inclosure Acts, in lieu of fee farm rents payable in respect of Land Tax purchased.

By the same Act, sect. 23, the Commissioners for the Affairs of Taxes (c) may cancel a contract for the redemption of Land Tax, where—although a contract for the sale of any lands or other hereditaments for the purpose of raising money may have been completed—the contract for redemption of such Land Tax cannot be carried out under the powers of the Land Tax Redemption Acts, or by reason of some defect in the title of the lands comprised in such contract for sale. By sect. 24, deeds executed under the Redemption Acts, and which were omitted to be enrolled, are declared valid if enrolled within twelve months after the passing of that Act, and power is given to the Commissioners for regulating the redemption of the Land Tax to direct the enrolment of any deeds thereafter to be executed which might be omitted to be enrolled within the proper time (d).

Although the difference between the terms purchase and redemption is clearly defined in the Act 42 Geo. III. c. 116,

- (c) Now Board of Inland Revenue.
  - (d) See also 54 Geo. III. c. 173.

In Beadon v. King, 9 Hare, 499; 22 L. J. Ch. 111, it was held that if it were shown that a purchase under the Land Tax Redemption Acts had been effected by fraud, the Court would rectify it, notwithstanding the confirming statutes, for a purchase so effected would not acquire validity from those statutes.

yet as in the previous Acts these terms appear indiscriminately employed to designate the *redemption* of Land Tax, it has been considered advisable to recapitulate briefly, in the following cases, the several modes of contracting which existed previous to the passing of the 42 Geo. III. c. 116:—

- Case 1.—A. B., having the absolute interest in certain lands, &c., redeemed the tax thereon without declaring his option to be considered in the light of a purchaser. The lands, &c., thereupon became exonerated, and the Land Tax merged in the estate.
- Case 2.—C. D., having a like interest, declared at the time of redemption his option to be considered as a purchaser. The tax here remained in assessment (subject to variation), and the redemptioner, his executors, administrators, or assigns, held the amount redeemed as a rentcharge issuing out of the estate.
- Case 3.—E. F., possessing an estate in the lands, &c., other than that of inheritance (e), redeemed the tax out of his own funds, and without declaring the like option. The lands, &c., were exonerated; and the redemptioner, his executors, administrators, or assigns, became entitled to a rent-charge thereout equal in amount to the Land Tax redeemed, and to the amount of the stock transferred, or money paid, as consideration for such redemption.
- (e) An estate tail is not an estate of inheritance within the meaning of the Land Tax Redemption Acts. See Ware v. Polhill, 11 Yes. 257.

CASE 4.—G. H., having a similar interest, declared the above option at the time of effecting the redemption. The lands, &c., continued assessable to Land Tax; and the redemptioner, his executors, administrators, or assigns, became possessed of the Land Tax redeemed as a transmissible rent.

The purchase of Land Tax contemplated by these Acts has been already described (f), together with the cause of its not having been carried into operation.

It thus appears that until the passing of the 42 Geo. III. c. 116, no purchase of Land Tax from the Government took place; but as the mode of redemption in the second and fourth cases above described, amounted, in effect, to a purchase, and as the term purchase was not represented by any operation having practical existence, it may be assumed that a scrupulous observance of the distinction between the terms was not deemed essential.

It must be remembered that contracts entered into before the 53 Geo. III. c. 123, were subject to the provisions of the 38 Geo. III. c. 60, s. 17.

In the event of a discrepancy occurring between the description of the property set forth in the body of the contract of redemption, and the description of such property in the transcript from the assessment inserted in the said contract, the former is to be accepted as the true description, in the absence of affirmative evidence to the contrary, which evidence it lies upon the Land Tax Commissioners to produce. See Case No. 4, "Hodgson and

another v. Pearson," given in full in the Appendix, and also the case of "Buchanan v. Poppleton," 27 L. J. C. P. 210, where it was held that the only evidence of a redemption is the certificate of the Commissioners, or a copy of the Register. See also note (p), p. 72, as to certified copy.

The Act under which redemptions are now effected is the 53 Geo. III. c. 123, and it is here necessary to briefly refer to one or two points of practice in connection therewith.

It is not advisable in small redemptions to pay the consideration money by means of a transfer of stock, except in special cases, because, owing to the periodical closing of the transfer books at the bank, and other causes, it entails trouble upon the redemptioner quite out of proportion to the amount of Land Tax to be redeemed. It is also, as a rule, highly undesirable to enter into a contract before the assessment for the then current year is made, *i. e.*, signed by the Commissioners. By waiting until that step has been taken the possibility of the necessity for amending or cancelling the contract, if prepared on the previous year's assessment, is thus avoided (see proviso in s. 20).

No contract entered into, or the amount of the Land Tax redeemed thereby, shall be affected by the appeal from the assessment by which the Tax was charged, but the appeal shall be decided between such of the parties as shall not have contracted (s. 129, 42 Geo. III. c. 116).

Under sect. 21, the Board of Inland Revenue have power, if there be any error in a "certificate of contract," to amend or cancel the same. It would appear from the statute, ss. 12 and 21, that the "declaration" signed by the party is, strictly speaking, the "contract," and that the document signed by the Board of Inland Revenue is the "certificate of contract." The former section enacts that the contract, or certificate of contract, is "binding" upon the redemptioner, or his representatives, for the "completion" of the contract.

The third rule of Schedule E. of the Act provides the remedy for recovery of the consideration money due under a contract "as a debt on record." The nature of the "process" is by writ of "scire facias" on the part of the Crown. Sects. 166 to 172 of the 42 Geo. III. c. 116, provide for the cancellation of a contract when default has been made in payment of the consideration money, and the imposition of a penalty not exceeding one-sixteenth part of the consideration money agreed to be transferred or paid on the contract; and sect. 130 of the same Act provides for the revision of the Land Tax fraudulently contracted for.

## PART VIII.

#### PROGRESS OF REDEMPTION.

At the outset and during the first year and a half following its introduction, Mr. Pitt's measure gave promise of the highest success. The low price of the funds in 1798 (they were under 48 per cent. when the redemption commenced) enabled persons to redeem their Land Tax at about 181 years' purchase, thus providing them with an investment yielding 5 to 51 per cent., upon the best security, vis., their own estate, without any risk or trouble of collection. Although, so soon as the scheme was in operation, a considerable rise in the 3 per Cent. Annuities took place (principally caused by the measure itself), the average price until the year 1800 did not exceed 56 per cent., which rate admitted of the tax being redeemed at an average of 21 years' purchase. There can be little doubt, however, that of the great body of landowners who at once came forward to redeem, many were actuated as much by a desire to assist in maintaining the public credit as by the opportunity afforded them of making a judicious investment.

It will be seen by the subjoined Table of the amount

of annual redemptions from the commencement, that the total amount of tax redeemed from July, 1798, to the end of 1799, exceeds by more than 100,000% the aggregate amount redeemed from that year to the year 1853; and also, that excepting the year 1803, when a great stimulus was given to redemption by allowing strangers to purchase the unredeemed tax on other persons' estates, the rate of redemption steadily declined after the year 1799; from which fact it may be inferred that the vast majority of the landowners who possessed the means of so doing, availed themselves of the measure simultaneously. It is difficult otherwise to account for the enormous decrease in redemption apparent in the years immediately following. The cause cannot be sought in the increased price of the Funds; for although they rose to an average of 70 in the year 1802, the amount redeemed in that year was but 300% less than the total redeemed in 1804, when the average price of Stocks was 56. In 1805 they averaged 58, yet the amount redeemed in that year was less by 3,5551. than in 1802, with an average price of 70. consideration of the Table does not support the impression sometimes entertained that the progress or decline in redemption invariably followed the fluctuations in the price of the 3 per Cents. There is reason to believe that, except the large landed proprietors, including corporations, both ecclesiastical and lay, who were in a certain degree influenced by patriotic motives, the public did not avail themselves to the extent anticipated of the advantages which the measure presented; it may therefore be assumed that in a financial point of view, the scheme did not prove

sufficiently attractive at a period when a scarcity of money prevailed. Apart from the want of capital, many of the small landholders and occupiers were possibly deterred from redemption by the complicated nature of the proceeding, which, until altered in the year 1813, involved much trouble and inconvenience.

The rate of redemption being the same for houses as for lands has likewise proved a serious obstacle. was especially the case in all old towns, which, from their importance at the time of the first imposition of the tax, bore comparatively a high quota. They contained a number of old houses which would sell for about fifteen or sixteen years' purchase, and if the owners had redeemed at about twenty-two or twenty-four years' purchase, and afterwards had sold, they would necessarily have lost several years' purchase of the tax. In rural districts the same objection applied to the redemption of cottage property, which, though worth only about ten years' purchase, was assessed equally with meadow or corn lands. respect to houses, therefore, it may be assumed that redemption was effected, as a rule, in cases only of contemplated improvements likely to entail a corresponding increase in the assessment of the tax.

#### TABLE

Showing the Amount of Land Tax redeemed in each Year from the commencement to the Year 1853, and average years' purchase at which Redemption was effected. (42 Geo. III. c. 116, Sch. L.)

YEARS.	Amounts of Land Tax redeemed.	Average prices of Stock.	Average years' purchase.	YEARS.	Amounts of Land Tax redeemed.	Average prices of Stock.	Averago years' purchase.
1798 } 1799 } 1800 1801 1802 1803 1804 1805 1806 1807 1808 1809 1810 1811 1812 1813 1814 1815 1816 1817 1818 1819 1820 1821 1822 1823 1824 1825	\$ 435,888 40,418 33,287 16,470 55,819 16,748 12,915 12,993 6,619 6,550 7,324 7,472 11,554 6,987 10,605 5,127 3,485 3,235 4,299 2,802 2,241 2,231 2,153 1,588 1,690 1,210	56 63 61 70 55 58 61 66 68 67 66 69 66 67 78 79 79 93	204 221 221 212 212 213 224 225 224 227 227 227 227 229 229 233 24 212 227 229 233 24 233 24 212 227 23 24 212 227 23 24 212 227 23 24 25 24 25 26 27 28 27 28 28 28 28 28 28 28 28 28 28 28 28 28	Brought forward 1826 1827 1828 1829 1830 1831 1832 1833 1834 1835 1836 1837 1838* 1840 1841 1842 1843 1844 1845 1846 1847 1848 1849 1850 1851 1851	£ 721,003 1,864 1,848 1,497 1,143 1,134 1,593 902 1,277 705 952 959 990 2,526 3,395 1,159 1,242 657 566 1,049 766 763 1,382 1,179 691 1,013 966 1,503	79 84 85 88 80 83 89 91 91 93 91 95 95 87 89 96 99	29 31 31 32 32 30 32 31 32 32 33 33 34 32 36 36 36 36 36 36 36 36 36 36 36 36 36
Carry forward	721,003			Carry forward	754,724		

<sup>\*</sup> The increase in redemption about this period is attributable to the inauguration of the railway system, the tax on the lands purchased being redeemed during the construction of the lines.

TABLE—continued.

Showing the Amount of Land Tax redeemed in each Year.

(16 & 17 Vict. c. 74.)

YEARS.	Amounts of Land Tax redeemed.	Average prices of Stock.	Average years purchase.	YEARS.	Amounts of Land Tax redeemed.	Average prices of Stock.	Average years' purchase.
Brought	£	£	£	Brought	£	£	£
forward	754,724			forward	820,571		
1853	7,850	96	29 <del>1</del>	1874	4,220	92	28
1854	2,898	90	$27\frac{1}{2}$	1875	3,372	93	28 <del>1</del>
1855	2,801	90	$27\frac{1}{3}$	1876	3,022	95	29
1856	2,398	91	$27\frac{3}{4}$	1877	3,589	95	29
1857	2,952	91	27#	1878	3,966	95	29
1858	1,717	96	29 <del>[</del>	1879	3,810	97	291
1859	1,635	93	$28\frac{1}{2}$	1880	3,136	98	29
1860	2,523	94	$28\frac{1}{2}$	1881	2,321	100	30 <del>1</del>
1861	1,878	91	274	1882	2,910	100	30 <del>1</del>
1862	1,649	93	281	1883	4,305	101	31
1863	2,970	92	28	1884	3,014	101	31
1864	3,409	90	271	1885	2,720	99	30 <del>1</del>
1865	6,006	89	271	1886	2,395	100	30 <del>1</del>
1866	3,613	87	$26\frac{1}{2}$	1887	2,666	101	31
1867	2,080	93	$28\frac{1}{2}$	1888	2,406	97	291
1868	3,081	93	28 }	1889	2,451		_
1869	2,666	92	28	ll.	Pt. of at £3%	101	31
1870	2,781	92	28		rem. at £277	97	321
1871	4,148	92	28-	1890	2,665	96	32
1872	3,416	92	28	1891	2,971	97	32 <del>1</del>
1873	3,376	92	28	1892	2,253	97	32 <del>1</del>
Carry forward	820,571			Total	878,763		

Until the year 1813, no alteration was made in the terms originally fixed for redemption. In that year, it was enacted by the 53 Geo. III. c. 123, afterwards renewed by the Acts 54 Geo. III. c. 173, and 57 Geo. III. c. 100, that the Land Tax charged upon houses, not having more than a quarter of an acre of land annexed to them, might be redeemed for a money consideration amounting to

eighteen years' purchase of the tax; which terms were from  $3\frac{1}{2}$  to 8 years' purchase less than the then current price of redemption.

The number of contracts entered into upon these terms from the year 1813 to the year 1818, beyond which period the privilege was not extended, reached 1,978, and the amount of Land Tax redeemed thereunder was 7,2581.

Persons in the actual possession of tenements or hereditaments, or entitled to the rents thereof, might also under the first-named Act contract at any time before the 25th March, 1815, for the redemption of their Land Tax, if not above 10*L*, by payment of an additional assessment equal to such Land Tax for a term of eighteen years certain, or until such additional assessments, being placed to one account and invested in the 3 per Cent. Annuities, together with the accruing dividends thereon, should produce a dividend exceeding the amount of the Land Tax redeemed by one-tenth part thereof.

The next modification in the price of redemption was effected in the year 1817, in favour of corporations and persons entitled to the patronage of livings, who were enabled to redeem the Land Tax charged thereon by a transfer of Stock yielding a dividend equal in amount to the Land Tax; the additional tenth required in other cases being waived (57 Geo. III. c. 100, s. 12).

The redemption of the Land Tax was not again dealt with by the Legislature until after a lapse of thirty-five years, although the subject had been from time to time brought under the notice of Parliament; more particularly in the year 1836, when it was considered by the Select

Committee of the House of Commons on Agricultural Distress; and again in 1846, when it was investigated by the Select Committee of the House of Lords nominated to inquire into the burdens affecting Real Property.

It was in the year 1853 that the most extensive permanent reduction in the terms of redemption was made.

By the 16 & 17 Vict. c. 74, the terms were fixed at £17:10s. per cent. less than those required by the 42 Geo. III. c. 116-a remission of over six years' purchase of the tax. Thus a Land Tax of 100% was made redeemable by a transfer of 3,0251. Stock, the dividend upon which is £90:15s., in lieu of £3,666:13s. 4d. Stock, yielding a dividend of 1101. This very considerable sacrifice failed, nevertheless, to give to redemption the stimulus anticipated; for although within the first year of such reduction the amount of Land Tax redeemed rose to 7,814l., it fell to 2,893l. in the succeeding year, and from that time until a few years ago the yearly average was under 3,000%. From the recent report of the Board of Inland Revenue it appears that now "about 3,000% or 4,000l. is generally" redeemed in the course of each year (a).

<sup>(</sup>a) In 1853 the 3 per Cents. averaged 96, and the price of redemption was consequently equivalent to about 29 years' purchase; a rate obtainable under the old terms, when the 3 per Cents. ranged between 79 and 80. On referring to the years in which the 3 per Cents. stood at that price, viz., 1822, 1823, and 1826, it will be seen that the amounts then redeemed were respectively 2,153l., 1,588l., and 1,864l. only; showing that even so considerable a reduction was not sufficiently tempting to induce persons to redeem as an investment.

Up to this period, also, the moneys paid as the consideration for redemption were invested, under the Acts, in the purchase and cancelling of Stock in either of the 3 per Cent. Reduced or Consolidated Bank Annuities; but by the Act 16 & 17 Vict. c. 90, s. 8, the Commissioners for the Reduction of the National Debt are empowered to lay out such moneys in the purchase and cancelling of any Parliamentary Stocks or Annuities chargeable upon and payable out of the Consolidated Fund.

In consequence of the conversion of the 3l per Cent. Consolidated and Reduced Bank Annuities into  $2\frac{3}{4}$  per Cent. Consolidated Stock, the terms for redemption were increased one-eleventh. (52 & 53 Vict. c. 42.)

The period of exoneration of the property included in a contract is the quarter day immediately preceding the date of payment of the consideration-money. (42 Geo. III. c. 116, s. 38.)

The amount of Land Tax redeemed, shown in the foregoing Table, includes a sum of 8,802*l*., which was remitted upon livings and charitable institutions, the total income of which did not exceed 150*l*., by the Commissioners appointed under the Great Seal in accordance with the powers given to them for that purpose by the Acts 46 Geo. III. c. 133; 49 Geo. III. c. 67; 50 Geo. III. c. 58; 53 Geo. III. c. 123; 54 Geo. III. c. 173, and 57 Geo. III. c. 100. These Commissioners, as before stated (*b*), were appointed in 1799 to superintend all sales made by ecclesiastical and eleemosynary corporations for raising money to redeem Land Tax; and by the above Acts they were

authorized to exonerate the livings and charitable institutions from the Land Tax charged thereon, without payment of any consideration, provided the aggregate amounts exonerated did not exceed 8,000%. This remission was covered by the gain of one-eleventh made upon the total amount of Stock obtained upon the sales sanctioned by those Commissioners, and transferred as consideration for redemption, which gain, in their report to Parliament in the year 1820, the Commissioners computed at about 10,000% per annum.

The subjoined table shows the number of small livings and charitable institutions exonerated in each year from the passing of the Act 46 Geo. III. c. 133, when the authority was first given, together with the amount of Land Tax remitted.

Years ending at Christmas.	Number of Livings exonerated.	Number of Charities exonerated.	Amount of Tax on Livings exonerated.	Amount of Tax on Charities exonerated.	
			£ s. d.	£ s. d.	
1806	732	20	3,267 13 3 <del>1</del>	73 12 10	
1807	467	148	$1,683 7 10\frac{1}{2}$	305 18 6	
1808	62	38	219 16 9	109 14 82	
1809	40	_	$112 6 0\frac{1}{2}$		
1810	95	4	392 10 1 <del>1</del>	5 17 2\frac{1}{2}	
1811	67	98	186 15 1 <del>\frac{1}{4}</del>	279 3 7	
1812	1		0 14 10	_	
1813	38	· 19	94 7 93	51 13 113	
1814	341	163	781 8 3 <del>1</del>	342 14 9	
1815	43	25	90 15 7	31 5 4 2	
1817	73	37	161 1 24	60 5 11	
1818	134	75	264 14 5 <sup>1</sup> / <sub>3</sub>	114 2 8 <del>½</del>	
1819	42	50	84 5 1	82 10 5 <del>1</del>	
1821	1	2	0 17 7	2 17 0	
1822	4	_	2 7 0	-	
Totals	2,140	679	7,343 1 2	1,459 17 21	

# STOCK TABLE

Showing the amount of Stock to be transferred for the Redemption of Land Tax in the three periods referred to on pages 89, 90, and 91.

	1798 to 1853. 42 Geo. III. c. 116.						1853 t 16 & 17 V			At the pi 52 & 53 V	At the present day. 52 & 53 Vict. c. 42.			
	and T		Ar			Stock.	Amount			Amoun				
£	8.	ď,		£	8.	d.	£	8.	d.	£	<i>s</i> .	d.		
0	0	0 <del>1</del>	• • • •	0	0	91 61	0	0 1	$\frac{7\frac{1}{2}}{3}$	0	0	8 5		
0	0	$0\frac{1}{2}$		0	3	03	ő	2	6	0	2	9		
0	0	1 2	••••	0	6	$0\frac{3}{4}$ $1\frac{1}{2}$	0	5	0 0	Ö	5	6		
Ö	0	3	••••	0	9	$2^{\frac{1}{2}}$	Ŏ.	7	6	0	8	3		
ö	0	4	••••	ŏ	12		0	10	1	Ö	11	0		
ŏ	0	5	••••	Ö	15	$\frac{2\frac{3}{4}}{3\frac{1}{2}}$	0	12		0	13	9		
ŏ	0	6	••••	Ö	18		ŏ	15	$\frac{7\frac{1}{4}}{1\frac{1}{2}}$	0	16	6		
Ö	1	0	••••	1	16	4 8	i	10	3	i	13	0		
ŏ	2	Ö	••••	3	13	4	3	0	6	3	6	ŏ		
ŏ	3	Ö	• • • •	5	10	0	4	10	9	4	19	ŏ		
ŏ	4	Ö	• • • •	7	6	8	6	1	0	6	12	0		
Ö	5	ŏ	••••	ģ	3	4	7	ıî	3	8	5	ŏ		
Ö	6	ŏ	••••	11	Ö	0	9	î	· 6	9	18	ŏ		
ŏ	7	Ö	••••	12	16	8	10	11	9	11	11	ŏ		
ŏ	8	ő	••••	14	13	4	12	2	ő	13	4	ŏ		
ő	9	ŏ	••••	16	10	Ō	13	12	3	14	17	ŏ		
ŏ	10	ŏ	• • • •	18	6	8	15	2	6	16	10	ŏ		
ŏ	11	Ö	••••	20	3	4	16	12	9	18	3	ŏ		
0	12	ŏ	••••	22	ő	ô	18	3	Ŏ	19	16	ŏ		
ŏ	13	ŏ	• • • •	23	16	8	19	13	3	21	9	ŏ		
ŏ	14	ŏ	••••	25	13	4	21	3	6	23	2	ŏ		
ŏ	15	ŏ		27	10	ō	22	13	9	24	15	ŏ		
ŏ	16	Ŏ		29	6	8	24	4	Ò	26	-8	Ŏ		
ŏ	17	ŏ	• • • •	31	3	4	25	14	3	28	ĭ	ŏ		
ŏ	18	ŏ	• • • •	33	ŏ	ō	27	4	6	29	14	ŏ		
ŏ	19	Ŏ		34	16	8	28	14	9	31	7	ŏ		
1	0	Ó		36	13	4	30	5	0	33	Ö	Ó		
2	Ō	Ó		73	6	8	60	10	0	66	0	0		
3	Ō	0		110	0	0	90	15	0	99	0	0		
4	0	0	• • • •	146	13	4	121	0	0	132	0	0		
5	0	0		183	6	8	151	5	0	165	0	0		
6	0	Ō		220	0	0	181	10	0	198	0	0		
7	0	0		256	13	4	211	15	0	231	0	0		
8	0	0		293	6	8	242	0	0	264	0	0		
9	0	0		330	0	0	272	5	0	297	0	0		
10	0	0		366	13	4	302	10	0	330	. 0	0		
20	0	0	••••	733	6	8	605	0	0	660	0	0		

## MONEY TABLE

Showing the several Sums payable for the Redemption of Land Tax in the Three Periods referred to on pages 89, 90, and 91.

First Period. When the £3 per Cent. Bank Annuities were at any price between 95 and par (42 Geo. III., cap. 116, Schedule L.).

	to b	Tax e ned	an	95 d w 96.	nder		96 d u 97.	ıder		97 d u 98.	nder	an	98 d un 99.		an	99 d un 100.		an	100 d ur 101	ıder
£	<i>s</i> .	d. 1	£	s. 2	d. 11	£	s. 2	$\frac{d}{11\frac{1}{2}}$	£	s. 2	d. 11₹	£	<i>s</i> .	d. 0}	£	s. 3	d. 0½	£	<i>s</i> .	d. 1
0	1	.0	1	15	04	1	15	5 <u>1</u>	1	15	9 <u>1</u>	1	16	0	ı	16	6 <u>1</u>	i	16	103
1	0	0	35	1	3	35	8	7	35	15	11	36	3	3	36	10	7	36	17	11

Second Period. When the £3 per Cent. Bank Annuities were at any price between 95 and par (16 & 17 Vict. cap. 74), being 17½ per cent. less than in the First Period.

	to b	Tax e ned	an		ıder	and	96 l un 97.			97 d un 98.			98 d ur 99.	ıder		99 d un 100			100 d un 101.	
£	s. 0	d. 1	£	s. 2	d. 4¾ 4	£	s. 2	$d.$ $5\frac{1}{4}$	£	s. 2	$\frac{d}{5\frac{1}{2}}$	£	<b>s</b> . 2	d. 6	£	<i>s</i> . 2	d. 6	£	s. 2	d. 6½
0	1	0	1	8	11	1	9	$2\frac{3}{4}$	1	9	6 <u>1</u>	1	9	10	1	10	11/2	1	10	5 <del>1</del>
1	0	0	28	18	$6\frac{1}{4}$	29	4	7	29	10	$7\frac{1}{2}$	29	16	8 <del>1</del>	30	2	83	30	8	91

Third When the £2 $\frac{3}{4}$  per Cent. Consolidated Stock is at any price between 95 and par (52 & 53 Vict. cap. 42), being  $\frac{1}{11}$ th more than in the Second Period.

	to b	Tax e med	an	95 d un 96.	der	an	96 d ur 97	ıder	an	97 d un <b>98.</b>		an	98 d ur 99	nder	an	99 d u 100	ader	an	100 d un 101.	der
£	<b>s.</b> 0	d. 1	£	8. 2	d. 7½	£	<i>s</i> .	<i>d</i> . 8	£	s. 2	d. 81/4	£	s. 2	d. 83	£	s. 2	d. 83	£	\$. 2	d. 91
0	1	0	1	11	$6\frac{1}{2}$	1	11	10 <del>1</del>	1	12	$2\frac{1}{2}$	1	12	61/2	1	12	10 <del>1</del>	1	13	$2\frac{1}{2}$
1	0	.0	31	11	11/2	31	17	84	32	4	34	32	10	111	32	17	6 <u>1</u>	33	4	11

## PART IX.

## LAND TAX IN SCOTLAND.

THE public subsidies in Scotland appear to have been levied from a very early period, according to valuations made for the purpose. The earliest of which there is any record was one made by Alexander III. in 1280, which was called the "Old Extent." The next valuation was made in 1326, during the reign of Robert I., and the value of the lands then ascertained was called the "New Extent" (a). The "Old Extent" was nevertheless in use as a basis of taxation for several centuries, and was not abandoned until Cromwell's time, when new valuations were made, the last in 1660 (b). But after the Restoration the first tax—which was charged properly on land—was imposed by the Convention of 1665 and levied by rule of old extent. The next was made by an act of the Convention of Estates held at Edinburgh on 23rd January, 1667.

This consisted of a supply of 72,0001. monthly, for the

<sup>(</sup>a) Erskine's Inst., part 2.

<sup>(</sup>b) In 1621 a tax was granted, to continue, for the space of four years—30s. (Scotch) yearly—upon every pound-land of old extent, and of the twentieth penny of all interest due on bonds, bills, and other securities. Jac. VI. cc. 2, 3. In 1633 a tax of 30s. (Scotch) was also imposed upon every pound-land of old extent. (Maitland's History of Scotland.)

space of twelve months, and was "to be raised and paid by the several shires and burghs of this kingdom, according to the valuations in the year of God, 1660." The Act named certain persons Commissioners for the shires, and appointed the magistrates Commissioners for the burghs, directing the latter to choose Stentmasters (c), who were to assess and apportion the tax among the contributors. In the counties the tax appears to have been levied from lands according to their valued rent (which term represented the old extents); but in the burghs it was raised from rents and incomes "according to the avail and quantity of each person's rent, living, goods and gear, which he hath within the burgh" (d).

The practice was observed in levying the supplies granted under the different Acts of Parliament, and was continued after the Revolution, as may be seen by the Act of 1690, c. 6, and subsequent Acts, wherein similar directions are laid down.

In the Act 5 & 6 of Ann. c. 8, intituled "An Act for an Union of the two Kingdoms of England and Scotland," it is provided (Article IX.), "that whenever the sum of £1,997,763:8s.  $4\frac{1}{3}d$ . shall be enacted by the Parliament of Great Britain to be raised in that part of the kingdom called England, on land and other things usually charged in Acts of Parliament there for granting an aid

<sup>(</sup>c) Stentmasters were so named from the word stent, a corruption of "extent," i.e., to value the lands and apportion the tax, (Jamieson's Scottish Dictionary, Vol. II.)

<sup>(</sup>d) See note (e), p. 99.

to the Crown by a Land Tax, that part of the United Kingdom now called Scotland shall be charged by the same Act with a further sum of 48,000l, free of all charges, as the quota of Scotland to such tax, and so proportionately for any greater or lesser sum raised in England by any tax on land and other things usually charged together with the land, and that such quota for Scotland in the cases aforesaid be raised and collected in the same manner as the cess now is in Scotland, but subject to such regulations in the manner of collecting as shall be made by the Parliament of Great Britain" (d). In accordance with the above statute, the quota for Scotland varied

(d) The Land Tax was usually imposed at the rate of 36,000l. per annum, but in order that Scotland, in regard to its lesser wealth and income, might pay exactly in the same proportion with England, it was agreed that 48,000l. should be raised upon the land in Scotland, when 4s. in the pound, or £1,997,763:8s. 4½d. was laid upon that in England. The revenue derived from Scotland at the time of the Union was as follows:—

		£
1.	Crown Rents	5,500
2.	Feudal Casualties	3,000
3.	Customs	30,000
4.	Excise	33,500
5.	Post-Office	1,194
6.	Coinage Impositions	1,500
7.	Land Tax	-
		£110,694

To put both kingdoms on an equal footing, 12,000% additional Land Tax was to be levied in Scotland. The rental of England, if the Land Tax then levied was equal to \( \frac{1}{2} \) of whole \( \frac{1}{2} \) 988,815 Of Scotland on same data \( \frac{1}{2} \) 000

(Sinclair, Part II.)

£10,228,815

proportionately with that of England down to the year 1798, when the sum granted for England in that year by 38 Geo. III. c. 5, was £1,989,673:7s.  $10\frac{1}{4}d$ .; and the quota for Scotland fixed at £47,954:1s. 2d., to be levied by an eight months' cess of £5,994:5s.  $1\frac{3}{4}d$ . per month, the said cess to be raised out of the land rent according to the monthly proportions within the respective shires, stewartries, cities, and boroughs set forth in the Act (sect. 128); the proportion of the boroughs was to be rated and paid according to the then existing tax roll, or was to be settled by themselves (sect. 129) (e).

The amount of the quota was to be raised free of all charges, and to be paid at Edinburgh (sect. 136).

The sums so assessed upon the counties, stewartries, cities, and boroughs, &c., were made perpetual, subject to redemption, by the 38 Geo. III. c. 60(f); and they have from such time been assessed under the provisions of the 38 Geo. III. c. 5, continued for the purpose by the 42 Geo. III. c. 116, which Act provides (sect. 180) that all lands, tenements, and hereditaments situated in Scotland shall continue subject to a new assessment yearly, and from year to year, according to the rates and in the manner established by law or custom in that country.

By T. M. A. s. 82, the Land Tax is payable on or before the 1st of January in every year.

<sup>(</sup>a) Much of the Scotch Land Tax appears to be in the nature of a charge on personalty. See p. 34, as regards the repeal of Land Tax on personal estates in England.

<sup>(</sup>f) The assessments on the boroughs were subject to readjustment by the convention (s. 129).

The Commissioners under whose superintendence the tax is levied are appointed in the same manner as the Commissioners who act in England (f).

No person can act as a Commissioner for Scotland, who is not enfeoft of 100l. Scots per annum, real rent, in the county where he acts, unless he be the eldest son and heir apparent of a person so enfeoft (sect. 137). Any provost, bailie, dean of guild, treasurer, master of the merchants' company, or deacon covenor of the trades of any royal borough, and any bailie for the time being of any borough of regality or barony, or the factors for the time being on the several forfeited estates annexed to the Crown by the Act 25 Geo. II. c. 41 (g), are capable of acting as Commissioners for such county, or stewartry (sect. 139).

By 7 & 8 Geo. IV. c. 75, s. 4, it is enacted that any sheriff depute or sheriff substitute for the time being of any county or stewartry in Scotland, who is or may be named to be a Commissioner for putting into execution the Acts relating to the Land Tax, shall be capable of acting as a Commissioner for such county or stewartry, anything in any former Act to the contrary in any wise notwithstanding.

The duties of these Commissioners formerly included the assessment and collection of the tax, but the management of the collection was transferred in 1835 by 5 & 6 Wm. IV. c. 64 to the Lords of the Treasury and the officers they might appoint.

<sup>(</sup>f) See page 36.

<sup>(</sup>g) Repealed by 24 Geo. III. sess. 2, c. 57, s. 34.

In consequence of the augmented value of property since the establishment of the tax in perpetuity, the unredeemed quota, now under 35,000%, is raised at a very trifling rate. In many districts, indeed, no assessment is made, the small amount payable being contributed from the common good in some cases, and in others discharged by the Superior, as will be seen from the following extract from a Return to Parliament in the year 1849.

#### APPORTIONMENT OF LAND-TAX QUOTAS IN SCOTLAND.

Cities, Boroughs, and Towns.	Average Rate per Pound.
1. Aberdeenshire: Aberdeen City	The rate is 3d. per 100l. Scots (or £5: 6s. 8d. sterling) on shipping, lands, fishing and houses, and 3d. per 100l. sterling on
Peterhead	trade.  1 or 12 of a penny on each ton of shipping, 13 of a penny on each 11. of rent of heritage, and £2: 10s. (part of the old quots of £14: 3s. 2d.) apportioned an- nually on traders.
Kintore (h) Inverury Fraserburgh	No assessment; paid always by the Superior.  † per trend boll.  The account received from this place of the mode of assessment is not under-
Old Meldrum Turriff	stood.  No assessment; paid by the Superior.  Ditto ditto.
2. Argyleshire: Campbeltown	No assessment; paid from common good of burgh.
Inverary	Ditto ditto.

(h) In the places marked "No assessment" or "No rate," the meaning is, that the quota of Cess or Land Tax is paid out of the common good of the town or burgh, or by the Superior or otherwise, and that there is actually no rate levied upon the inhabitants.

Cities, Boroughs, and Towns.	Average Rate per Pound.
3. Ayrshire: Ayr Burgh	1d. per pound on houses, lands, and trade.
Irvine	2½d. per pound on ditto ditto.
Kilmarnock	No assessment; paid from common good of burgh.
Saltcoats	Ditto ditto.
4. Banffshire: Banff Burgh Cullen Portsoy	No assessment; paid from common good. Ditto ditto. No assessment; paid by the Superior.
5. Berwickshire: Lauder and Eyemouth	No assessment; paid out of common of the burgh.
6. Buteshire: Rothesay	‡ per pound.
7. Caithness-shire: Wick Thurso	1s. $4\frac{3}{4}d$ . per pound. $9\frac{1}{2}d$ . per pound.
8. Clackmannanshire: Alloa	24d. per pound on the valuation (Scots).
9. Cromartyshire: Cromarty	No assessment; fixed sum paid.
10. Dumbartonshire: Dumbarton	No assessment; fixed sum paid.
11. Dumfries-shire: Dumfries	$1\frac{1}{2}d$ . per pound on lands, $1d$ . per pound on houses, and fixed sum on trade.
Annan	No assessment; paid from common good. Ditto ditto. $\frac{1}{2}d$ . per pound.
12. Edinburghshire: Edinburgh City	$2\frac{1}{4}d$ . per pound.
13. Elginshire: Elgin	$1\frac{2}{1^2}d$ . per pound, $1d$ . per pound.

Cities, Boroughs, and Towns.	Average Rate per Pound.
14. Fifeshire—Burghs: Anstruther, Easter	No equal rate; laid on according to the estimation of party's circumstances; two-thirds on trade, and one-third on pro-
	perty.
Ditto, Wester	Same mode; wholly upon trade, professions, &c.
Burntisland	1d. per pound of rental.
Cupar	1d. per pound on rental, and on traders, &c., according to estimation of party's circumstances.
Crail	No stated rate; laid upon property according to the opinion of Stentmasters.
Dunfermline	2d. per pound of rental.
Dysart	3½d. per pound of rental.  No rate; charged according to estimation of party's circumstances.
Kirkaldy	$1\frac{2}{4}d$ . per pound of rental.
Kinghorn	1½d. per pound on rental, trade, &c., according to estimation of circumstances.
Kilrenny	No rate; same rule as Cupar. Ditto ditto.
Pittenweem St. Andrews	1d. per pound of rental.
Baronies:	
Wemyss	No rate; levied according to Stentmaster's estimation.
Leven	Ditto ditto.
Dunnikier, or Path- head	Tax paid out of (the common good) public fund of the feuars.
Linkater	No rate; same rule as Cupar.
Elie	Ditto ditto.
Limekilns	Ditto ditto.
15. Forfarshire:	
Forfar Burgh	$\frac{10}{2}$ of a penny on 1 <i>l</i> . sterling of rent of property, and $\frac{6}{16}$ of a penny on 1 <i>l</i> . sterling of trade.
Brechin	1½d. per 17. sterling, partly on heritages and means of substance.
Dundee	1 d. per pound on rental, and on trade according to estimation of circumstances.
Arbroath	fof the amount from property, and from trade, and 1 per pound of rental.
Montrose	1s. $2\frac{1}{2}d$ . for every 100 $l$ , sterling of rental.

Cities, Boroughs, and Towns.	Average Rate per Pound.
16. Haddingtonshire: Haddington Burgh Dunbar Preston Pans North Berwick	13d. per pound. 13d. per pound. 2d. per pound. Fixed sum; paid by proprietors.
17. Inverness-shire: Inverness Burgh	1½d. per pound.
18. Kinross-shire: Kinross	Nil.
19. Kincardineshire: Stonehaven Burgh Bervie	1d. per pound on rental. 2d. per pound on rental.
20. KirkcudbrightStewartry: Kirkcudbright Burgh. New Galloway	
21. Lanarkshire: Glasgow City Rutherglen Burgh Lanark	14d. per pound of rental. No rate; paid by proprietors. Ditto ditto.
22. Linlithgowshire:     Linlithgow Burgh     Boness	$2\frac{1}{3}d$ . per pound of rental. 2d. per pound of rental. $2\frac{1}{4}d$ . per pound of rental.
23. Nairnshire: Nairn Burgh	$\frac{6}{18}$ of 1d. per pound.
24. Orkney: Kirkwall Burgh	4d. per pound of rental.
25. Peebles-shire: Peebles Burgh	10d. per pound of rental.
26. Perthshire: Perth City	23d. per pound of rental, and a sum of 57l. laid on parties in trade by the Stent-
Culross Burgh	masters appointed by the Magistrates.  11d. per pound of rental, and assessment on trade according to estimated means,
Doune	at 3d., 4d., and 6d. Fixed sum paid by Superior.

# THE LAND TAX.

Cities, Boroughs, and Towns.	Average Rate per Pound.
27. Renfrewshire: Greenock Town Renfrew Burgh	Paid out of the common good. Ditto ditto.
28. Ross-shire: Dingwall	Levied from the heritors on some victual- valuation of old date, at about 3½d. per boll.
Tain	No rate; paid out of common good. Ditto ditto.
29. Roxburghshire: Jedburgh	$1_{12}^{-1}d$ . per pound on rental.
30. Selkirkshire: Selkirk Burgh	$\frac{4}{12}$ of 1d. per pound on rental.
31. Shetlandshire: Lerwick	Nil.
32. Stirlingshire: Stirling Burgh	3 per cent. upon the rental of the proper- ties charged, under agreement between
Grangemouth St. Ninian's	the Magistrates and the Inhabitants.  \$\frac{1}{4}d\$, per pound upon proprietors, and \$\frac{1}{4}d\$, perpound upon occupiers of property.  No rate; paid by Superior.
33. Sutherlandshire: Dornoch	No rate; paid by Superior.
34. Wigtonshire: Stranraer Wigton Whithorn	No rate; paid from common good. Ditto ditto. Ditto ditto.

•

men . . . .

# APPENDIX.

## FORMS.

# INSTRUCTIONS FOR THE GUIDANCE OF INTENDING REDEMPTIONERS.

No. 129.

#### REDEMPTION OF LAND TAX.

Note.—Any person having an estate or interest in lands and tenements (except tenants at rack rent, or holding under the Crown) may contract for the redemption of the Land Tax charged thereon.

When a person having an estate or interest in lands and tenements other than that of inheritance redeems the Land Tax out of his own money, the estate becomes chargeable, for the benefit of such person or his assigns, with the amount of the consideration paid for such redemption, and with the payment of a yearly sum of money by way of interest thereon, equal in amount to the Land Tax redeemed.

Any person entitled to contract for the redemption of the Land Tax charged upon his property, and being desirous so to do, must (either personally or by his authorized agent) attend before the clerk to the Land Tax Commissioners for the division in which the property is situate, and in his presence sign one of the forms of declaration hereinafter mentioned, producing at the same time a full description of the property proposed to be exonerated, giving its area and boundaries or numbers on the tithe or ordnance maps. If a plan be used—as is preferable—it must be in duplicate, one copy to accompany the certificate of the contract, and the other to be attached to the registry thereof at the Land Tax Redemption Office.

The clerk will thereupon attest the signature to the declaration, and, on a special form, certify the amount of the Land Tax charged upon the property proposed to be experted.

Both documents with plans (if any) will be forwarded by the clerk to the Registrar of Land Tax, who will prepare a certificate of the contract to be signed by the Commissioners of Inland Revenue, provided the documents are made out in accordance with the requirements of his office.

The contract so entered into will, under the provisions of the Land Tax Redemption Acts, be binding upon the contractor.

In due course, the Registrar of Land Tax will notify to the contractor or his agent the amount of the consideration money, and the address of the receiving officer of inland revenue to whom it must be paid. No payment of money can be legally made except in pursuance of such notice, and to the officer named therein, no other person having any authority to receive the money. For this purpose the contract will be forwarded to the receiving officer in order that his receipt may be indorsed thereon.

Upon the money being paid, the contract will be

returned to Somerset House for registration, after which it will be forwarded to the contractor or his agent, further indersed with a certificate of such registration, and of the period from which the property will be exonerated from Land Tax.

No person is authorized to charge the public with any fee for certificates of assessments or other proceedings in the redemption of Land Tax.

N.B.—The Acts of Parliament do not authorize the declaration in any case to be attested by an assistant clerk, but in the absence of the clerk it may be attested by one of the commissioners of the district, and the certificate of charge signed by two of such commissioners.

(The forms of declaration and certificate are supplied to the clerks to commissioners.)

#### PAYMENT IN MONEY. SCHEDULE A., No. 2.

Where the consideration is intended to be by payment of money in one sum, it must be paid to the receiving officer of inland revenue for the district in which the property proposed to be exonerated is situate, and must be sufficient to purchase so much 2%1. per centum Consolidated Stock according to the price of such stock in the second week after the date of the certificate of contract as will yield an interest or dividend as directed by the Acts

42 Geo. III. c. 116; 53 Geo. III. c. 123; 16 & 17 Viot. c. 74; and the 52 & 53 Viot. c. 42.

Example.—Assuming the Land Tax to be redeemed be 11., and the price of stock 98 and under 99, the consideration will amount to £32: 10s. 11d.

If by four instalments the consideration must also be paid in money to the said receiving officer by two payments in each year, viz., on or before the 25th day of March, and on or before the 29th day of September, and each payment will be so much money as will be necessary to redeem one-fourth part of the Land Tax together with interest on the second and each subsequent instalment (a).

## FORM OF DECLARATION.

I (or we) do declare, that I (or we) am (or are) desirous of redeeming the Land Tax contained in the annexed certificate, in the mode and on the terms last above described and marked A., No. 2. The consideration thereof to be paid as follows, viz., by one instalment on the day of (or) by four half-yearly instalments as the Acts direct.

Witness my hand (or our hands) this day of

Signed in the presence of)

Clerk to the Commissioners of Land Tax for the division of in the county of

(a) See foot-note to p. 114.

## TRANSFER OF STOCK. SCHEDULE A., No 1.

Where the consideration is intended to be by TRANSFER OF STOCK in one amount or by four half-yearly instalments, such stock must be the 2\frac{3}{4}\cdot\text{.} per Cent. Consolidated Stock, and must be so much as will yield an interest or dividend as directed by the Acts 42 Geo. III. c. 116; 53 Geo. III. c. 123; 16 & 17 Vict. c. 74; and 52 & 53 Vict. c. 42.

## FORM OF DECLARATION.

By one Instalment or by four Half-yearly Instalments.

I (or we) declare, that I (or we) am (or are) desirous of redeeming the Land Tax contained in the annexed certitificate in the mode and on the terms above described and marked A, No. 1. The consideration thereof to be transferred as follows, viz., by one instalment on or before the day of (or) by four half-yearly instalments as the Acts direct (a).

Witness my hand (or our hands) this day of 189.

Signed in the presence of

Clerk to the Commissioners of Land Tax for the division of in the county of

<sup>(</sup>a) See foot-note to p. 114.

#### TRANSFER OF STOCK. A. No. 1.

By Instalments exceeding Two Years.

Where the consideration is intended to be by TRANSFER of Such Stock as is before mentioned, to be made within any period exceeding two years and not exceeding sixteen years, by two equal transfers in each year, the period to be regulated by the amount of the consideration. The stock to be transferred in any year must not be less than 100% stock. For instance, if the whole stock amounts to 1,600%, the period may be sixteen years; if less, and it amount to 1,500%, then in fifteen years, and so downwards; but any period within the limit above mentioned may be chosen by the contractor (a).

## FORM OF DECLARATION.

I (or we) do declare, that I (or we) am (or are) desirous of redeeming the Land Tax contained in the annexed certificate, in the mode and on the terms last above described, and marked A, No. 1.

in years.

Witness my hand (or our hands) this day of 189.

Signed in the presence of

Clerk to the Commissioners of Land Tax for the division of , in the county of

(a) See foot-note to p. 114.

SALES, MORTGAGES, OR GRANTS.—Note.—When the consideration for the redemption of Land Tax is intended to be raised by sale, mortgage, or grant of any entailed estate, or any ecclesiastical or trust property, and the sum so raised shall exceed 500l., the Form of Declaration A, No. 1, must be filled up and signed, as the Acts require that in such cases the money shall be paid into the Bank of England and invested in the purchase of Parliamentary Stocks or Annuities to be transferred in satisfaction of the contract for the redemption of the Land Tax.

#### PAYMENT IN MONEY. SCHEDULE B.

By Instalments exceeding Two Years.

Where the consideration is intended to be by payment in money within any period exceeding two years and not exceeding sixteen years, the period is regulated by the amount of the consideration. The money to be paid in any year must not be less than 60%. For instance, if the whole consideration amounts to 960%, the period may be sixteen years; if less, and it amounts to 900%, in fifteen years, and so downwards; but any period within the limit above mentioned may be chosen by the contractor, and if he redeems after the receiving officer's receipt following the 10th day of October, the amount of two instalments must be paid at one time for the first year.

## FORM OF DECLARATION. B.

I (or we) do declare, that I (or we) am (or are) desirous of redeeming the Land Tax in the annexed certificate in the mode and on the terms last above described and marked B.

in years(a).

Witness my hand (or our hands) this day of 189 .

Signed in the presence of

Clerk to the Commissioners of Land Tax for the division of , in the county of

(a) The subsequent instalments are payable on the 29th September and 25th March in each year, together with, as interest, a sum equal to half the amount of the Land Tax to be redeemed, which sum is subject to a deduction bearing the same proportion to the half year's Land Tax as the number of instalments then before paid bears to the number of instalments agreed to be paid in the Contract. Thus: If payment is to be made in sixteen half-yearly instalments spreading over eight years, and the Land Tax be 16l, the interest on the 2nd instalment will be 8l., less 1sth = 7l. 10s.; on the 3rd, 8l., less 1sths = 7l.; and so on. (See 42 Geo. 3, c. 116, s. 29.)

## CERTIFICATE OF CLERK TO COMMISSIONERS.

No. 130.

#### REDEMPTION OF LAND TAX.

CERTIFICATE of the amount of LAND TAX to be redeemed, and Description of the Property upon which it is assessed.

\* If the contractor is not named in the assessment as proprietor, his increase in the property must be stated.

Whereas\* of in the county
of has represented to me that he is
desirous, under the provisions of the several
Acts of Parliament relating to the redemption
of the Land Tax, to redeem the Land Tax
charged on certain lands and premises in the
in the division of in the County
of described by him as follows, viz.†

† Here insert the description of the premises, giving the area and boundaries, or numbers on the tithe or ordnance maps.

If plans be used—as is preferable — they must be in duplicate and marked as exhibits to this certificate—Vide Instructions to

I, Clerk to the Commissioners of Land Tax for the division of in the county of do, in pursuance of the directions contained in the said Acts, hereby certify that the said premises stand charged

### APPENDIX.

Clerks to Commissioners.

N.B.—Please
observethemarginal notes.

The division of in the county of of the year 189, as follows, viz.

No. of Assess- ment.	Christian and Surnames of Proprietors.	Descrip Prop	es and otion of erties ged.	Rentals or Annual Values assessed.	exo	s assessed and not nerated, in the £.
		No. of House.				

Given under my hand this

day of

189

Signed

## COMMISSIONERS' CERTIFICATE OF APPOR-TIONMENT.

No. 2.

#### REDEMPTION OF LAND TAX.

At a Meeting of the Commissioners of Land Tax, acting in and for the Division of, in the county of, held at, in, within the said Division this day of, 189.

\* If the contractor is not named in the assessment as proprietor, his interest in the property must be stated.

† Here insert
the description
of the premises,
giving the area
and boundaries,
or numbers on
the tithe or
ordnance maps.

If plans be used—as is preferable — they must be in duplicate and marked as exhibits to this certificate—Vide Instructions to Clerks to Commissioners.

N.B.—Please observe the marginal notes.

WHEREAS\* . of , in the county of , hath represented to the Commissioners of Land Tax acting for the Division of , in the county of , that he is desirous, under the provisions of the several Acts of Parliament relating to the redemption of Land Tax, to redeem the Land Tax chargeable on certain lands and premises in the , in the said division and of county, described by him as follows, viz.+

And whereas a difficulty has arisen in the redemption of Land Tax which ought to be charged on the said lands and premises, by reason of such lands and premises not having been distinctly assessed to the Land Tax, the same being assessed in the assessment for the said of , for the year 189,

together with other lands and premises, as follows, viz.:—

No. of Assessment.	Names of Proprie- tors.	Names of Occupiers.	Names and De- scription of Properties charged.	Rentals or Annual Values assessed,	Sums assessed and not exonerated, at in the £.	Tax ascertained, settled, and adjusted by the Commissioners at their meeting of the 189—.

AND WHEREAS the said has applied to us to settle and adjust the proportion of Land Tax which ought to be borne and paid by the said in respect of the said lands and premises so not distinctly assessed to the Land Tax. We do hereby certify, that in pursuance of the powers vested in us by the 35th section of the Act 42nd Geo. III. cap. 116, we have ascertained, settled, and adjusted the proportion of Land Tax which ought to be borne and paid by the said in respect of the land and premises aforesaid, at the total sum of , the particulars of which are set forth opposite to each sum of Land Tax charged in the original assessment.

GIVEN under our hands this day of , 189.

## No. 3.

#### REDEMPTION OF LAND TAX.

At a Meeting of the Commissioners of Land
Tax acting in and for the Division of
in the county of
within the said Division, this
day
of
, 18

Whereas , of , in the county of , hath represented to the Commissioners of Land Tax, acting for the abovenamed Division, that he is desirous under the provisions of the several Acts of Parliament, relating to the redemption of Land Tax, to exonerate from Land Tax certain lands and premises situate in the parish of , in the said division and county described by him as follows, †

† Here insert the description of the premises, giving the area and boundaries, or numbers on the tithe or ordnance maps.

If plans be used—as is preferable — they must be in duplicate and marked as exhibits to this certificate—Vide Instructions to Clerks to Commissioners.

N.B.—Please observe the marginal notes. And whereas a difficulty has arisen in the exoneration of the said lands and premises by reason of such lands and premises not having been assessed to the Land Tax in the said parish for the year 18.

and AND WHEREAS the said ha applied this to us to settle and adjust the proportion of Land Tax which ought to be borne and paid to by the said in respect of the said lands and premises not hitherto assessed to the perman-Land Tax.

WE DO HEREBY CERTIFY, that in pursuance

of the powers vested in us by the 35th section of the Act 42nd Geo. III. cap. 116, we have ascertained, settled, and adjusted the Land Tax which ought to be borne and paid by the said in respect of the said lands and premises, at the sum of  $\pounds$ 

GIVEN under our hands this day of , 18.

Two Commissioners.

INSTRUCTIONS for the guidance of Clerks to Commissioners in taking Declarations and preparing Certificates under the Land Tax Redemption Acts.

## REDEMPTION OF LAND TAX.

Note.—All persons having any estate or interest in the premises assessed (except tenants at rack-rent or under the Crown) may contract for redemption of the Land Tax.

## As to Declarations.

FORM A, No. 1.

—Transfer of
Stock.

1. Redemptions are rarely effected by the transfer of stock, owing to the expense and trouble incurred thereby. The contractor should not therefore be allowed to sign this

(See p. 82.)

trouble incurred thereby. The contractor should not, therefore, be allowed to sign this form, unless upon explanation he desires to carry out the redemption in that manner. When, however, the consideration is intended to be raised by sale, mortgage, or grant of any entailed estate or any ecclesiastical or trust property, and the sum so raised shall exceed 500*l*, this form only can be used.

FORM A, No. 2.

—Payment in

Money.

2. The Form of Declaration, A, No. 2, for the payment of the consideration in money, is the form now generally adopted; and the most convenient mode of effecting redemptions to the contractors is by payment of the consideration in one sum.

FORM A, No. 1.

—Transfer of
stock by instalments exceeding two years.

FORM B.—Payment in money by instalments exceeding two years.

3. The first of these forms is never used and the second very rarely. The terms of redemption to which these forms relate entail on the contractor considerable trouble without any corresponding advantage, and tend to create difficulties in the event of his requiring to sell the property, or any portions thereof, before all the instalments are transferred, or paid, as the case may be.

Redemptions effected through an agent. 4. If application to redeem is made by an agent (except in cases where companies are represented by their recognized officers), that fact should appear after his signature to the declaration, together with his address, and his authority for acting as such should be in writing and signed by the contractor. It should be delivered to the Clerk to the Commissioners, and by him annexed to the declaration.

Clerks to Commissioners redeeming.

5. If a Clerk to Commissioners is desirous of exonerating property of which he is the proprietor in his own division, his signature to the declaration must be attested by a Land Tax Commissioner of the division.

Note.—In no case can a declaration be attested by an Assistant Clerk.

#### As to Certificates.

FORM No. 130.
—Names, addresses, &c., of contractor.

1. The Certificate should set out the contractor's christian and surname in full, and also his style or title, and place of residence.

Description of property.

The property should be described in such a manner that its identification may be insured at any future time, and with that view the quantity of land, and the boundaries thereof, or numbers on the Tithe Commutation Map of the parish, or Ordnance Map, should be stated. Plans have been found to be the most perfect method of identification. If resorted to they must be in duplicate, and after being made exhibits, should, with the certificate, be transmitted to the Registrar of Land Tax, in order that one may accompany the contract and the other be attached to the Registry.

Plans.

If used must be in duplicate, and made exhibits.

If proprietor not named in assessment, his interest must be stated. Description of property.

If not properly described, the assessment should be amended.

- 2. If the person who proposes to redeem is not named in the assessment as proprietor, his interest in the property must be stated.
- 3. In certifying the assessment care should be taken that there is no discrepancy between the description given of the property in the preliminary portion of the certificate and in the transcript from the assessment. If, therefore, the assessment does not properly describe the property it should be amended, so that a proper certificate on which a contract

can be based may be forwarded to the Registrar of Land Tax.

As to redemptions effected after the 24th of March in any year, and before the new assessment is made. 53 Geo. 3, cap. 123, sec. 20.

4. If a person is desirous of contracting for the redemption of Land Tax after the 24th March in any year, and before the assessment for that year is made, the charge on the property according to the previous year's assessment must be certified. The consideration for the Redemption will, however, be governed by the amount of the assessment for the current year. The property must, therefore, be included in the new assessment, and when the same has been signed the Clerk should forward to the Registrar his certificate of such assessment, upon receipt of which the contract will be registered in the event of there being no alteration in the amount of the charge. If the charge has been reduced, a proportionate amount of the consideration will be returned to the contractor, and if it has been increased, the Registrar will communicate with him in order to ascertain whether he be willing to pay the additional consideration, or whether he would prefer having the contract cancelled, and the money paid by him refunded.

If, however, at the time of the application to redeem, the assessment for the current year is being made, or will shortly be made, it is desirable that the intending contractor should be advised to defer the redemption until such assessment is completed.

Clerks to Commissioners redeeming.

- 5. In the case of a redemption by a Clerk to the Commissioners, the certificate must be signed by two of the Commissioners of the division.
- FORM No. 2.— Apportionment.
- 6. Where a person wishes to redeem the Land Tax on a portion only of any property which is charged by the assessment in one sum, this form must be used; and
- (See p. 117, note.) before the certificate is granted the Commissioners must apportion the charge in the manner prescribed by sect. 35 of 42 Geo. III. c. 116.

Note.—In no case can a certificate be signed by an Assistant Clerk.

By Order of the Commissioners of Inland Revenue,

LAND TAX REDEMPTION OFFICE,
INLAND REVENUE,
SOMEBSET HOUSE, LONDON.

# DIGESTS OF CASES, AND JUDGMENTS.

## No. 1.—CHARLETON v. ALWAY.

(See pp. 22, 46.)

Digest.—In this case, it appeared that the Vicar of Elberton, Gloucestershire, as occupier of the vicarial house, glebe, and tithes, was, in 1837, assessed to Land Tax as follows:—

Rectorial and vicarial tithes . . . . 13 16 3 Vicarage house and glebe land . . . 4 12 0

notwithstanding that the Land Tax on the rectorial tithes—previously assessed at 21.—had been redeemed by their owner, the Bishop of Bristol, and that even if they had not been so redeemed, they should have been separately assessed. On the 1st January, 1838, the Collector demanded a moiety of both these charges. The Vicar paid them, less a sum of 1l. 19s. in respect of the redeemed rectorial tithes, which he refused to pay. Whereupon the Collector distrained therefor, and an action for trespass was brought by the Vicar, in consequence, at the Gloucestershire Assizes. The verdict being given against the Collector, his Commissioners moved for a new trial, on the ground that the Vicar had not appealed to them, as they contended he should have done; and also for a non-suit, by reason of the said Commissioners not having been joined in the

suit as required by 24 Geo. 2, c. 44, s. 6. A Rule was granted on the first point only; and the case was heard in the Queen's Bench. The Court decided against the Collector, and, holding that an assessment upon redeemed property may be treated as a nullity, discharged the Rule.

[Court of Queen's Bench, 13th May, 1840. Reported 11 Ad. & E. 993.]

Judgment.—LORD DENMAN, C. J.: "The Land Tax on the rectorial tithes had, in this case, been redeemed; therefore, neither the Commissioners nor the Assessors had any jurisdiction in respect of such Land Tax. however, included in the assessment, but in one undivided sum, with the Land Tax on the vicarial tithes, both being in the occupation of the plaintiff. This was incorrect, at all events, even if the rectorial tithes had not been redeemed, inasmuch as it appears that the Bishop was proprietor of the rectorial tithes, and the plaintiff occupier only; and stat. 20 Geo. 3, c. 17, s. 3, provides that, 'if any person shall rent, hold, or occupy messuages, lands, or tenements, belonging to different owners or proprietors. the same shall be separately and distinctly rated and assessed in such assessments that the proportion of the Land Tax to be paid by each separate owner or proprietor respectively may be known and ascertained.' The want of separation was the fault of the Assessors and Commissioners; and, by stat. 5 & 6 Will. 4, c. 20, s. 19 (a). every 'action or suit which shall be brought against any

<sup>(</sup>a) Now by 43 & 44 Vict. c. 19 (T. M. A.), s. 20.

Collector or Collectors of the Land Tax shall be defended by the Commissioners acting for the division or place where such Collector or Collectors shall have been appointed,' and the costs, &c., shall be defrayed by an assessment as therein provided.

"The plaintiff did, in fact, pay the Land Tax on the vicarial tithes; and the distress was really made for that on the rectorial tithes, 11. 198., which was known to the Collector to be disputed.

"The only question is, whether the plaintiff ought to have appealed to the Commissioners. We think that he Being assessed in respect of that was not bound to do so. which was not subject to the Land Tax, he has as much right to treat the assessment as a nullity as if it had been in respect of property not in his occupation. See Governors of Bristol Poor v. Wait, 1 A. & E. 264. The verdict. therefore, is right. As to any attempt now to apply the distress to the Land Tax for the vicarial tithe of the current quarter, it is manifestly unjust and illegal: that Land Tax was never demanded, which it necessarily must be before a distress can be taken; and no appeal day was named with reference to that tax. The Rule must be discharged."

Rule discharged.

# No. 2.—Reg. v. Land Tax Commissioners for the Tower Division.

(See p. 23, note (h).)

**Digest.**—This was a mandamus commanding the Land Tax Commissioners to meet and cause the proportion of Land Tax charged on the said division to be equally taxed and assessed within the said division and within every parish and place therein, according to their best judgment and discretion, pursuant to the statutes in such cases made and provided for the year commencing 25th March, 1852. The defendants the Land Tax Commissioners—in their return, alleged that they had met in obedience to the mandate, but, exercising their best judgment and discretion, found themselves still unable to disturb the assessments, which therefore remained in statu quo ante. At the sittings at Westminster, after Michaelmas Term, 1852, Lord Campbell found a special verdict to the effect that:-From the date of the first Land Tax Act, 4 Wm. & M., c. 1 (1693), each parish comprised in the Tower Division had contributed its separate quota towards the entire quota for the division, with the result (obviously due to the fluctuations in the value of property in such parishes) that the pound rates for the several parishes in the division for the year 1852 were unequal. The rates, it was found, ranged in the different parishes from 6d. to 2s. 7d., an inequality not in conformity with 38 Geo. 3, c. 5, which enacted that the quota imposed upon the whole division by that Act was to be assessed throughout it at an equal pound rate. Subsequently, the case was taken to the Court of Queen's Bench, where it was twice argued. The Court now held that: - The assessment to the

Land Tax is regulated, not by 38 Geo. 3, c. 5, but 38 Geo. 3, c. 60, re-enacted by 42 Geo. 3, c. 116, which created a fixed quota to be raised from the land, &c., in each district (parish or place) within the division, such quota being that which was laid upon the land in the district in the assessment of 1798—38 Geo. 3, c. 5—and delivered judgment in favour of the Land Tax Commissioners accordingly.

[Court of Queen's Bench, 25th June, 1853. Reported 22 L. J.—Q. B. (N. S.) 389.]

Judgment.—Lord Campbell, C. J.: "This mandamus, reciting that the assessment to the Land Tax on the parishes and places within the Tower division were unequal in proportions, varying from 6d. in the pound to 2s. 7d. in the pound, commanded the Commissioners for that division to cause the Land Tax charged thereon to be equally assessed in those parishes and places. The return stated that the proportions complained of were in the judgment of the Commissioners according to law. And the verdict finds that the assessments to the Land Tax on those parishes and places have been in those proportions from the year 1693 to the present time; and so the question is raised, whether those proportions are contrary to law.

"For the prosecutors, it was argued, that the duty of the Commissioners is regulated by the 38 Geo. 3, c. 5, s. 8, commanding them to cause the sums fixed for their divisions to be equally assessed within the parishes or places therein, according to the best of their judgment;

that they had knowingly caused those sums to be unequally assessed within those parishes and places contrary to the statute, and that they were not justified in thus violating a clear enactment by the usage stated in the verdict. But we are of opinion that this argument fails, on the ground that the duty of the Commissioners in causing the districts of their divisions to be assessed is not regulated by the 38 Geo. 3, c. 5, s. 8, granting an aid under the name of Land Tax for the year 1798, but by the 38 Geo. 3, c. 60, making perpetual a part of that Land Tax so granted for a year, and effecting a change both in the nature of the tax, and in the mode of assessing it.

"In support of this opinion, we proceed to show, first, the nature of the Land Tax under the 38 Geo. 3, c. 5, and then the change made by the 38 Geo. 3, c. 60, and the other statutes made in furtherance thereof. By the 4 Will. & M. c. 1, the parliament granted an aid of 4s. in the pound upon all property, which for our present purpose we class under the heads of personal property, salaries, and land, and provisions were made for the effective assessment of these three kinds of property. Under these provisions, the kingdom became parcelled into divisions for which separate Commissioners acted, and these divisions became parcelled into parochial and other districts for which separate Assessors acted; and in this judgment we have thought it best to use 'division' and 'district' to denote these meanings, for we have felt. that the want of two such terms in the statutes on this subject has made the subject less clear than it might be. Under the 4 Will. & M., c. 1, the assessments for the

districts, showing the quota to be paid by each, were to be returned by the Assessors to the Commissioners, and the Commissioners were to make duplicate copies of all the assessments in their division, one for the Receiver General, and one to be returned to the Remembrancer in the Exchequer, showing the quota to be paid by the division and the quota to be paid by each district of the division; the aggregate of the quotas for the divisions giving the total produce of the tax.

"In the early part of this reign grants of aids were repeated, varying slightly in name and form, the inappropriate name of 'Land Tax' not at first appearing in the title of the Acts, and the form at first being for a pound rate on all the rateable subjects. Ultimately, these grants resulted in an annual grant of a fixed sum, called 'an aid by a Land Tax'; that sum was charged by the statute in fixed proportions upon the different divisions, and these proportions appear to have been taken from the duplicates of the assessments returned under the 4 Will. & M., c. 1. We find no enactment dividing the fixed proportion of the division in fixed proportions among the districts thereof, so as to give a statutable sanction to the usage in that respect, which is found by the verdict to have been followed from 1693 to the present time in this division. contrary, the Commissioners are directed to cause the fixed proportion for the division to be levied, by causing the personalty and the salaries to be assessed in each district at 4s, in the pound, and the land in each district to be so assessed by an equal pound rate, so that the produce of the rate on the land, when added to the produce of the

other rate of 4s. in the pound, should make up the fixed proportion for the division. It is obvious that if this direction had been followed, the amount to be charged on the land was contingent on the annual produce by the other rate, and that as the value of personal property and salaries increased, the amount to be raised from the land would be lessened and might entirely cease. The 38 Geo. 3, c. 5, is in the accustomed form, and the direction to the Commissioners for assessing is to the effect contended for by the prosecutors, and that direction does not seem to support the usage which, according to the verdict, has prevailed in this division from 1693 to the present time. That usage may be accounted for, because for some years after 1693 an effective valuation in that year would remain substantially correct, and after those years the usage may have remained unquestioned, or been preferred to an annual valuation and assessment founded thereon. present judgment, it is not necessary to decide on the origin or the legality of this usage, but the law for assessing to the Land Tax and the mode of executing that law prevailing in 1798, should be understood for the sake of understanding the change introduced in that year by the 38 Geo. 3, c. 60, to the consideration of which we now proceed.

"The object of the legislature in passing this statute was to support the public credit, by making a part of the National Debt a charge upon the land. The statute passed in June, 1798, while the assessments under the 38 Geo. 3, c. 5, were in the course of being made, for by that statute the process for assessing is to begin after the

30th of April, 1798, and the duplicates of the completed assessments are to be returned by the 8th of August, 1798. The Assessors of the districts are by this statute directed to divide their assessments thus in the course of formation into the three heads of property before mentioned, namely, personalty, salaries, and lands. So much of the assessment for that year as should charge the land is made a perpetual charge thereon, subject to redemption in the manner and with the limitations to be explained more particularly after we have considered the effect of this process on the two other heads of property subject to assessment. As the land was before subject to a contingent amount depending upon the produce from the other sources, and would for the future be charged with a fixed sum, it became necessary to alter the mode of charging those other sources in the future annual grants of a tax on them; and, accordingly, we find in the 39 Geo. 3, c. 3, passed in December, 1798, for granting the tax on those heads for 1799, that the Commissioners are no longer directed to apportion the fixed proportion for their division among the districts, and to cause the proportion for each district to be levied by a rate of 4s. in the pound on the personalty and salaries, and the residue on the land; but the assessments of the districts for 1798, under the 38 Geo. 3, c. 5, being assumed to be divided under the heads of land, personalty, and salaries, and the quota in that assessment for each district upon land to be disposed of by the 38 Geo. 3, c. 60, then the quota in the same assessment for each district upon personalty is taken to be a fixed quota for that district under that head, and is to

be levied, not by a tax of 4s. in the pound, but by an equal pound rate upon that district sufficient to raise that fixed quota; and with respect to the quota for salaries in the assessment of 1798 for each district, the district is discharged therefrom, but the salaries are to be charged, where the office is executed, at a rate not less than the rate in the assessment of 1798, and some annuities under this head payable at the Exchequer are made liable to 4s. in the pound at the place of payment. This arrangement fixing a quota for each district in respect of personalty is enacted by the earlier sections of the statute. sect. 8 provides for a deficiency in the collection from inability to pay, or from mistake or otherwise, by giving the Commissioners a power to make a re-assessment on the place in which the defect occurs as shall seem agreeable to justice, and it is also provided that the assessment is not to exceed 4s. in the pound. It is thus apparent that the legislature, by the 38 Geo. 3, c. 60, treated the fixed proportion of the division as apportioned among the districts thereof in a fixed quota for each district in respect of It also treated the quota theretofore assessed personalty. on each district in respect of salaries as in one sense fixed, for it transferred that charge from the district to the place of the office, and so exempted the district therefrom, and thus the duty imposed on the Commissioners by the 38 Geo. 3, c. 5, as to causing personalty and salaries to be equally assessed throughout the districts of their divisions was at an end, and the quota for each district as to personalty, under 39 Geo. 3, c. 3, became fixed by reference to the assessment for 1798, nearly to the same extent

as the quota for each division had become fixed by reference to the assessment under the 4 Will. & M., c. 1.

"We are thus brought to the point governing the present case, namely, the duty of the Commissioners after the 38 Geo. 3, c. 60, in respect of causing the lands of their division to be assessed to the Land Tax on land. The prosecutors contend that their duty remained as it was enacted by the 38 Geo. 3, c. 5, to cause so much of the fixed proportion for the division as was charged on land to be assessed equally by rates on all the lands of the several districts of the division. But it appears to us that the 38 Geo. 3, c. 60, created a fixed quota to be raised from the land of each district, and that the sections we are about to mention produce that effect.

"By sect. 1, it was enacted, that the several and respective sums charged by virtue of the 38 Geo. 3, c. 5, on the divisions of Great Britain in respect of the lands therein for one year, should continue and be raised yearly and for ever, subject to redemption. If the effect of this section had not been altered by those that follow, a quota would have been fixed for each estate which formed the subject of a separate charge in the assessment for 1798. sect. 2, personalty and offices are exempted from the operation of that Act. By sect. 3, the sums charged, or to be charged on the assessments then being made, under the 38 Geo. 3, c. 5, on personalty and offices, are to be separated and divided from the remainder of the moneys charged in the assessment for each district, and are to be so returned in the duplicates of such assessments to be transmitted by the Commissioners to the Exchequer.

By sect. 8, it was made lawful for the Commissioners to contract with persons having a preference as owners, or otherwise, in respect of any lands, for the redemption of the Land Tax charged thereon, according to the assessment made, or to be made, under the 38 Geo. 3, c. 5. This power of redemption applies to the quota charged upon the particular lands the subject of the contract. sect. 68, it was enacted that, after the 25th of March, 1799, the Commissioners might sell to persons, not entitled to any such preference, the whole or any part of the Land Tax remaining unsold. This, again, applies to the quota for each particular estate in the assessment for 1798. Then, by sect. 74, it is enacted, that the whole of the Land Tax charged on any district shall, notwithstanding the discharge of any part thereof, continue to be inserted in the certificate of assessment to be signed by the Commissioners of Land Tax, so long as any part of the proportion of Land Tax charged in such district shall remain payable, and that all lands that shall not be exonerated by virtue of this Act from the Land Tax shall continue subject to a new yearly assessment, by an equal rate, according to the annual value, not exceeding 4s. in the pound, and that such part of the said Land Tax which shall remain payable as aforesaid in any district, shall be levied in the same manner as if the lands charged with the Land Tax so remaining payable as aforesaid formed an entire district, and according to such methods as are prescribed by the Act of the present session, with respect to the quota of each district. It is under this section, which is re-enacted by the 42 Geo. 3, c. 116, s. 180, that the

Commissioners act in causing the yearly assessment to the Land Tax on land to be made, and their duty is created and regulated thereby; and the section, in our understanding of it, directs that the quota for the land of the district on the assessment of 1798, made for that year under the 38 Geo. 3, c. 5, should be assumed as a fixed quota for the district, subject to small variations mentioned below, and subject to redemption; and it further directs an annual assessment to raise the unredeemed part of that quota from the unredeemed part of the land of the district.

"It seems to us that the quota was here taken to be fixed for the land of the district, as the quota for personalty was, in express terms, enacted to be fixed by 39 Geo. 3, c. 3, and the same express enactment was not used in the case of land, because the enactment was to be adapted in that case to the process of redemption, which did not apply to personalty. It further seems to us, that this reference to 'the quota for the district fixed by an Act of the present session,' referred to the 39 Geo. 3, c. 3, and not to the 38 Geo. 3, c. 5, as is expressed in the 42 Geo. 3, c. 116, s. 180, because there is no fixed quota for the district in the 38 Geo. 3, c. 5; and although the Act is referred to 'as of the present session,' and did not pass till the next session, yet as the 38 Geo. 3, c. 60, passed at the close of that session, and 39 Geo. 3, c. 3, passed at the beginning of the following session, the first being in June, 1798, and the second in December, 1798, and as the two Acts are one arrangement for future Land Tax, rendered necessary by the redemption of Land Tax in land, we think it probable that the 39 Geo. 3, c. 3, was proposed at the same time as the 38 Geo. 3, c. 60, and expected to pass with it, and so was referred to by the above description, which became inapplicable as it was postponed till after the recess in 1798. But whether we are right in this supposition or not, we think that the true construction of the section now in question is as above explained.

"The subsequent enactments providing both for variations rendered necessary either by change of value or on account of mistakes, and for other purposes, confirm this Thus, by the 38 Geo. 3, c. 60, s. 103, if any assessment which shall continue to be charged in pursuance of this Act shall be found to exceed 4s. in the pound, there may be an abatement 'in the manner in such case directed in the said Act of the present session,' by which we understand the 39 Geo. 3, c. 3, for the reasons before given; and by the 38 Geo. 3, c. 60, s. 105, when in any parish or place, separately assessed to the Land Tax (that is, district), the whole of the Land Tax charged thereon is redeemed, all assessment on that district shall cease. 39 Geo. 3, c. 6, s. 15, gives some recognition to past usage as guiding in the assessment of districts in 1798; for it enacts that when the sums assessed in that year, under the 38 Geo. 3, c. 5, are greater or less than the sum which has been imposed on such parish or place in respect of such lands, on complaint, the Commissioners may ascertain the sum which has been set on such district, and in case of doubt the certificate of the Remembrancer of the Exchequer, or of the Barons in Scotland, after inspecting duplicates returned for twenty years, is to be decisive. Sections 16 and 17

provide for lands omitted; they may be assessed, and a proportion deducted from the assessment on the other lands of the district. The 42 Geo. 3, c. 116, repeals part of the 38 Geo. 3, c. 60, but not the part continuing for ever the several and respective sums charged in the assessment for 1798, and the powers in that Act contained for putting the same in execution. Section 180 provides for a continued assessment of the district so long as any part of the Land Tax charged thereon remains unredeemed, in the same terms as sect. 74 of the 38 Geo. 3, c. 60, except that the reference therein to 'the quota for each district under the Act of the then session of parliament,' which we have applied to 39 Geo. 3, c. 3, is applied to 38 Geo. 3, c. 5, s. 18, but of this we have spoken before.

"The 6 Geo. 4, c. 32, s. 1, making provision for the assessment exceeding the fixed quota for each district, and the 2 Will. 4, c. 127, making provision for the transfer of districts from one division to another with their fixed quota, and the 4 & 5 Will. 4, c. 60, s. 1, for transferring districts, with assessments, from one division to another, and the 5 & 6 Vict. c. 37, also for transferring districts, or portions of districts, from one division to another, with the amount charged thereon, are consistent with our present judgment, and support it, and cannot easily be reconciled with the prosecutors' case.

"To this review of the statutes is to be added the long usage found by the verdict and the important interests dependent thereon. If the words of the statutes are clear, considerations from this source cannot alter their effect; but if the words are capable of two constructions, public

convenience ought to be regarded in considering the probable intention of the legislature."

Judgment for the defendants.

#### No. 3.—LORD COLCHESTER and Others v. KEWNEY.

(See p. 30.)

Digest.—This was an appeal from the decision of the Court of Exchequer [35 L. J., Ex. (N. S.), 204] upon a Special Case stated without pleadings. Plaintiffs were three of the Royal Commissioners appointed to administer the Patriotic Fund publicly subscribed, in 1854, for the benefit of the widows and orphans of soldiers and marines who had fallen in the Crimean war. After purchasing a portion of Wandsworth Common, the said Royal Commissioners had erected thereon the building, known as the Victoria Patriotic Asylum, wherein (eligible) children, exclusively, were lodged, boarded, clothed, and educated at the Fund's expense. In 1863, the Assessors of Land Tax for Wandsworth having assessed this asylum, plaintiffs appealed to the Land Tax Commissioners (claiming exemption for it as an "hospital" under the 25th section of 38 Geo. 3, c. 5, and also on the ground that it was a Royal charity and Crown property), who, however, decided against them on both issues. Subsequently, payment being still refused, defendants levied a distraint upon the asylum, in consequence of which, an action was brought against them by plaintiffs in the Court of Exchequer. There, also, the asylum was held to be liable, and hence the present appeal, which resulted in a confirmation of the judgment of the Court below. In brief, this final decision was (1) that, the proviso in 38 Geo. 3, c. 5, s. 25, exempting "hospitals," applies only to hospitals, and sites of hospitals, founded before the passing of the 38 Geo. 3, c. 60, whereby the former Act was made perpetual; (2) that, an asylum for the maintenance and education of children of soldiers, &c., built, endowed, and maintained out of a fund subscribed by the public, and administered by Commissioners appointed by the Crown, is not exempted, quâ Crown property, from paying the Land Tax.

[In the Exchequer Chamber (Appeal from the Court of Exchequer), 18th May, 1867. Reported 36 L. J.—Ex. (N. S.) 173.]

Judgment.—WILLES, J.: "We are all (7) of opinion that the judgment of the Court of Exchequer ought to be affirmed, and that the argument that the 38 Geo. 3, c. 60, established the existing Land Tax as a perpetual charge upon the land subject thereto, ought to prevail.

"It appears that at the time when the 38 Geo. 3, c. 60, was passed, the 38 Geo. 3, c. 5, an Act of Parliament passed in the same year, had imposed the then existing Land Tax. That was one of a variety or a succession of Acts, which had from time to time imposed the Land Tax, and it contained an exception which included (we will assume for the purpose of the argument) the present case; so that if the property in respect of which the liability to Land Tax is in contest here had been in the same state when the 38 Geo. 3, c. 5, passed, it would have been thereby exempted. That exception is found in the 25th section of the Act, in the

proviso, 'Nothing in the Act contained shall extend to charge, amongst other things, any hospitals.' The only other part of the section necessary to refer to is the clause which exempts other hospitals and almshouses for and in respect only of any rent or revenues which on or before the said 25th of March, 1693, were payable thereto. fore, the Act exempted the sites of hospitals, and exempted the revenues of hospitals, provided those revenues had been received before the 25th of March, 1693, and were then payable. Assuming that the property in question was within the exception in respect of the site of the hospital, it was within the exception by reason of the 25th section of the temporary Act of the 38 Geo. 3, c. 5. That was an Act which had only an operation for the time; it was to grant a Land Tax for the year, and it was under these circumstances that the 38 Geo. 3, c. 60, was enacted. That was not a temporary Act; it was an Act intended to make the said tax then existing perpetual; and if the legislature had thought proper to make the Land Tax perpetual, with a proviso that in the event of land, in the change of time, coming within any of the categories which were considered sufficient to create an exception at the passing of the 38 Geo. 3, c. 5, of course it was competent for the legislature to make the tax perpetual, subject to that condition, and with that qualification. No express qualification to that effect, however, is found in the statute; but it is said, construing the two Acts together, that they are in pari materia, and that we ought to infer that such was the intention of the legislature; and so we ought to conclude that, though the site of the property in question (assumed for the purposes of the argument to be an hospital) was chargeable under the 38 Geo. 3, c. 5, and was charged in perpetuum by the 38 Geo. 3, c. 60, yet when once its use changed to that of an hospital, or one which would have been within the scope of the 25th section of the former Act, then its liability ceased upon the true interpretation of the latter Act, construed by the light of the former Act.

"Now, is that argument sustained by the language of the Act of the 38 Geo. 3, construed according to the ordinary rules of construction, and having regard to the subject-matter? We are of opinion that it is not; but that the language of the 38 Geo. 3, c. 60, is general and unqualified; that the intention of that Act was that the Land Tax which was then payable should continue to be paid in respect of the land that was then charged; and when the legislature says that the Land Tax shall be perpetual, it means what it says, viz., that it should continue for ever payable out of the land which was subject thereto. Now, in order to give our reasons for that, it would be proper to refer to the language of the statute, and it will not be necessary to go far beyond the 1st section for the purpose of showing that the language bears the construction that has been put upon it in the very elaborate and lucid judgment of the Court of Exchequer. The statute commences by reciting that 'it may materially conduce to the strengthening and supporting the public credit and to augmenting the natural resources at this important conjuncture, that the duty now payable for one year on land shall be made perpetual, but

subject to redemption and purchase on transferring to the Commissioners for the Reduction of the National Debt a certain proportion of capital stock in the manner hereafter stated.' The recital, therefore, which is the key to the Act, seems to have given the construction which we adopt. The enactment follows, 'That the several and respective sums of money charged by virtue of an Act of the present session (referring to the Act already mentioned) to be raised in Great Britain for the service of the year 1798, on the respective counties, ridings, stewartries, cities, boroughs, cinque ports, towns and places in Great Britain, in respect of manors, messuages, lands, tenements and hereditaments in the said Act mentioned, lying within the same counties, to be raised, levied and paid unto His Majesty within the space of one year from the 25th day of March, 1798, shall, from and after the expiration of the said term (except as hereinafter mentioned) continue and be raised, levied and paid yearly to His Majesty, his heirs and successors, from and after the 25th day of March in every year for ever, and that all the powers, rules, directions, provisions, articles, clauses, matters and things contained in the said Act of the present session of parliament, so far as the same are not varied or otherwise provided for in this Act, shall continue and be in full force. and be duly observed, practised, and put in execution.' We have, therefore, the case of property not exempted when the former Act was passed; and when the latter Act: was passed we have words making the charge then existing thereupon perpetual. Unless some good reason can be shown for not giving effect to those general words, they

must be constraed generally. The enactment in terms is 'the Land Tax then payable,' and which must mean all the Land Tax then payable, and must therefore include every part of the Land Tax then payable, and that which was distrained for as Land Tax in this case is the representative of the Land Tax then payable, as a part of the Land Tax then payable, as a part of the Land Tax then payable, and to 'continue to be paid for ever.'

"However, to show that this general provision was not applicable, various arguments were addressed to the Court: in the first place arguments derived from the subsequent provisions of the statute itself. Upon turning those arguments over, every one of them appears to point to a general construction of the statute, and not to particular. exceptions. The property is not only to be chargeable to. the government tax for ever, but it is to be dealt with as if it would be payable for ever. As, for instance, in the redemption and especially the purchase of it by the transfer, for the purposes mentioned in the recital, of an amount of Consols sufficient to produce a certain revenue somewhat exceeding the estimated amount of the Land Tax, and that with a provision for a compensation out of the sum in Consols to be paid to the purchaser in the event of an abatement by reason of the change in the value of the estate, but no provision for a return in the event of the use of the land changing to come within the exception to be imported into the perpetual statute from the temporary statute, when in consequence of its being applied to a use within the 25th section of the temporary statute it should cease to produce anything whatever for the purchaser.

leave the arguments upon the statute with the remark that it is clear they rather tend to sustain the absolute perpetuity of the charge without any change in the subsequent use of the land, than that they tend to the contrary. They have been so abundantly referred to and observed upon in the judgment of the Court below, that beyond indicating the argument it is unnecessary to follow the discussion.

"Now, such being the conclusion from the statute, and the inference to be drawn from the enactment itself, and also from the details which are provided by the legislature for carrying it into effect, let us consider the further difficulties which were urged, on the part of the appellants, for the purpose of inducing us to arrive at the true construction of the Act. It is said an absurdity will follow if we hold that the second Act of the 38 Geo. 3, did impose a perpetual charge on lands which were then subject to it, without also holding that it made perpetual the exemptions existing at the time. Thus, as to the lands which were used as hospitals at the time, can it be said that they are not to be taxed when they cease to be used as hospitals? Or as to persons, though all the schoolmasters existing at that time have died, are not the new race of schoolmasters. to be exempt? and so forth. Or with respect to mines undiscovered and unopened, would you say they are not to be taxed as soon as they come to be opened? These arguments probably were the most considerable which have been advanced, but when properly considered, they seem to have no place in the present discussion.

"With respect to the question whether,—supposing an

hospital existing at the time of both the statutes, 38 Geo. 3, to cease to be an hospital, and to be reduced (as in the recent case of St. Thomas's Hospital) to uses other than those charitable uses which were considered sufficient in the 38 Geo. 3, to exempt it,—it is when applied to its new use to be taxed to the Land Tax or not, it is enough to say that it is not the present case. It may be said upon the part of the public bearing of the Land Tax that the reason ceasing, the operation of the act ceased; that, in fact, it was an exception, and the exception was one which applied to the thing with an implied condition so long as it was preserved in the character in which it was exempted. That would be the argument upon the one side. Upon the other hand, it would be argued, no doubt, that the intention of the legislature must have been to treat hospitals and other establishments coming within the 25th section of the first Act of the 38 Geo. 3, as having redeemed the Land Tax, to give them the property not only whilst they continue to use the land, but when they came to dispose of it, as St. Thomas's Hospital did, with all the benefit of being exempt from the tax. The case is not appropriate here, because it is obvious that no such considerations can at all enter into the present argument. And no such question could have arisen then, because the statute in question only imposed the Land Tax on land for a year; making no provision for any subsequent change in the status of the land.

"Then, with respect to the schoolmaster, I think neither is that, which one must admit to be a specious consideration, at all applicable, because the Act of Parliament, in respect

of personal property, is not dealing with individuals; it deals with a sort of property made at the time by A., B., and C., but which, when A., B., and C. are in their graves, may be represented by X., Y., and Z.; and therefore it seems to have no application to the case of a perpetually existing object of property, where a change may be made in the way of using the property. Probably to the end of time there will be a certain amount of money made by teaching; teachers will change, but the property itself will be the property made by teaching. However, fortunately, a bar has been put upon questions of that description by the statute, which has taken away the Land Tax, by a sort of solecism, in respect of personal property.

"Then the last case put was the case of mines and quarries, and it is said, Assume a mine or a quarry that was not open in the time of the 38 Geo. 3, is that not to be taxed? All that need be said upon that is, that a mine or a quarry is nothing more than a phase of land, the potential profit of land which was in existence at the time the statute was passed, and therefore, probably, no difficulty would be found in dealing with that case when the question arises; at all events, it does not affect the discussion in hand here.

"Upon this language, therefore, of the 38 Geo. 3, c. 60, which appears to be general, and indeed universal; and in respect of Land Tax payable out of land from which it was then payable, upon the plain language of the 1st section of that statute, which we cannot find modified in any other part of the statute, we think that the Land Tax is payable in this case, inasmuch as it was then payable, and

has not been taken away by the change in the use of the land.

"I would add, before concluding, with reference to Crown property and the taxing of Crown property, that it was not, and could not have been, considered at the time so shocking that property belonging to the Crown should be exempted, not because it belonged to the Crown, but only in respect of its actual occupation by the Crown, or its being appropriated to public purposes; because express provisions for taxing Crown lands and machinery for redeeming the tax are to be found in the subsequent statute of 39 Geo. 3, c. 6.

Judgment affirmed.

## No. 4.—HODGSON and Another v. PEARSON.

(See pp. 32 and 81.)

Digest.—This was a Special Case stated without pleadings. In 1799, the Lord of the Manor of Chingford St. Paul, Essex, redeemed the manor. The property was described in the Commissioners' certificate of assessment and in the contract, as the manor, enclosed groves, and woodlands; but, neither the schedule to the certificate of assessment, nor that to the contract, nor the duplicate assessment, comprised the said manor, groves, or woodlands, they merely gave the names of the supposed occupiers of the property; and beyond the statements in the said certificate and contract, there was no evidence that the said manor, or groves, or woodlands, had ever been charged with Land Tax prior to the said contract of redemption. In

1844, Mr. Hodgson purchased the manor, groves, and woodlands, and, enclosing parts of the waste lands, cultivated and built upon them. Down to 1867, no Land Tax was charged; in respect of such waste lands. But, in 1868, it was so charged, and, payment being refused, the tax was recovered by distress. And, upon like measures being adopted in 1871, the executors of Mr. Hodgson commenced an action for: trespass, in consequence of which this Special Case was stated. For the plaintiffs, it was contended that the tax payable on the manor and woodlands was redeemed by the said contract. For the defendant, that the tax was never legally redeemed; and that, assuming the manor to have been redeemed, such redemption could not and did not comprise (as being not assessable) the open and unenclosed wastes. The Court held: - That where a "manor" has once been charged with Land Tax, and the tax once redeemed, no after enclosure of the waste lands will render the manor liable to re-assessment. Also, that if there be a discrepancy between the certificate of assessment and the contract on the one hand, and the schedule to such certificate of assessment and to such contract on the other hand, the description in the certificate and in the contract is to be deemed the true description in the absence of affirmative evidence to the contrary, which evidence it lies upon the Land Tax Commissioners to produce. The Court accordingly gave judgment for the plaintiffs.

[Court of Common Pleas, 20th November, 1874. Reported 31 L. T., & P. (N. S.) 682.]

Judgment.—Keating, J.: "In this case the question arises upon the validity of an assessment to the Land Tax

made upon Richard Hodgson by the Commissioners of Land Tax, in which the rate is made on a rental of 3861. and the sum assessed is 12l. 17s. 4d. Mr. Hodgson's executors say he was not liable to that assessment, asserting that so far back as the year 1799 the manor and lands of a manor in the parish of Chingford were redeemed from the tax. In support of that assertion they bring before us a certificate, dated June 1799, which states that the manor of Chingford St. Paul, and other lands and hereditaments, are charged with the Land Tax to the amount of 701. 48.. 'all which messuages, lands, and premises,' runs the certificate, 'are situate in the parish of Chingford, and are rated as under.' Then follows the schedule of rating. is to be observed that whilst the certificate contains a minute description of the lands and hereditaments said to be included in the rate of 701. 4s., the schedule of rating contains no description whatever, except the names of the supposed occupiers of the property in respect of which the assessments are made. The total is 70l. 4s., but inasmuch as the names only of the parties assessed are given, we have no means whatever of knowing how far the assessments correspond with the descriptions mentioned in the certificate. Now it is contended for the defendant that in order to seek relief from the assessment to the Land Tax, it lies upon the present plaintiffs to show that the land in respect of which the exemption is claimed was assessed and afterwards exempted from the assessment; and it is contended that this exemption is not shown, inasmuch as the certificate does not fit in with the schedule, and is therefore incorrect. Undoubtedly it is impossible

to reconcile the certificate with the schedule. The certificate contains a positive assertion that the hereditaments as described are rated under the 70%. 48.; but upon looking to the sums and names, there is certainly no accurate correspondence between them, and the question is, which is right and which is wrong. Now it would seem that the contract is made first, and the certificate is enrolled afterwards; but the certificate (of assessment) would apply only to the lands in the parish of Chingford, whereas the contract includes also five acres and a half of commonable land in the parish of Walthamstow. It is clear, therefore, from these assessments, that they were not indifferent altogether to commonable land. The certificate and the description in the contract agree accurately, with the exception I have pointed out, and the amount, 701. 16s., is the amount of 701. 4s., plus the 12s. in the parish of Walthamstow. Here again is a description which it is impossible to reconcile. It is contended with great force by Sir Henry James, that it is impossible that the manor and these lands—the waste of the manor and the woodland of the manor—could have been included in this assessment. I cannot say that I see any impossibility in it, although I agree that there is a very great discrepancy between the two assessments. is quite impossible to reconcile the assessments with the description in the contract and the certificate. should say that it is to be taken more against the party granting the enfranchisement than the other, what it is that the Crown means to enfranchise; and if a minute description of the land intended to be enfranchised is set

out in the contract and certificate, it is not the circumstance of the schedule being inaccurate that will necessarily derogate from the force of that description. Now we are to draw inferences of fact. All this takes place in the year 1799, and things remain undisturbed until upon various occasions some of the commoners, and also the lord of the manor, began to inclose, and the lord of the manor also erected a residence and farmhouse upon a portion of the inclosure. We have not the dates of all these operations, nor do we know when the state of things occurred which first awakened the vigilance of the Land Tax Commissioners. All we know is, that it was not until the year 1867 that the tax was imposed. It seems to me that if we are to grope our way in finding out how far the schedule does or does not necessarily exclude the lands described in the certificate and the contract, that the undisputed facts of acquiescence tend strongly to show that these lands were considered as included, and so treated by the Land But the strength of the plaintiff's Tax Commissioners. case is, that he has in express terms that which would include his lands stated by the Commissioners in 1799 to be exempted; and I do not think that that description can be defeated by merely pointing to a schedule which is no doubt referred to in the certificate, but which either must be inaccurate itself, or must render the contract and certificate inaccurate. I prefer to give weight to the certificate and contract, and think, under all the circumstances, that the plaintiffs are entitled to our judgment."

Lush, J.: "I am of the same opinion. The property which is said to be assessed consists of a residence and

farmhouse, together with farm offices and buildings, and a: considerable quantity of land. The whole estate was, in: the year 1799, part of the waste of the manor. At various' times since that period portions of the waste have been: inclosed, and came into the hands of Mr. Hodgson as a purchaser for value; the whole of these are comprised in what is called the Hawkwood Estate. The question is. whether the Hawkwood Estate has or has not been redeemed, and whether it is or is not exempt from Land Tax. It is admitted, and cannot indeed be denied, that if the waste of the manor was comprised in the contract for redemption, it cannot be assessed now. The Land Tax once redeemed is redeemed for ever. All we have therefore to determine is, what is the reasonable construction of the contract of the 29th June, 1799. Now this purports to be a contract whereby the Commissioners certify that they have 'contracted with William Snell, of Shenley, in the county of Hertford, Esq., the committee of John Snell, Esq., a lunatic, for the redemption of 701. 16s., Land Tax charged upon the manor of Chingford St. Paul, and two inclosed groves, containing together by estimation twentysix acres, and on the woodland on the aforesaid manor in the occupation of the said John Snell, Esq.' It then enumerates various other properties which are to be subjects of the contract. The words, 'which are charged on the manor together with other properties the groves and woodlands of the manor,' prima facie embrace not only the seignorial rights, but also the waste lands and everything which is the property of the lord; therefore it is said in terms that the Land Tax which it was proposed to

redeem was charged upon the manor. I fail to see anything whatever to qualify these words. We read. 'all which manors, messuages, lands, and premises are situate in the parish of Chingford, in the said county of Essex, and are rated in the duplicate as follows.' We then find a list of names set out, the name of Mr. Snell, as proprietor, and the names of a number of other persons as occupiers of that which constitutes the manor and other lands described in the contract. It is contended that there is an inconsistency, because the contract states that the manor, together with the woodland and groves, at the date of the contract were in the occupation of John Snell, the proprietor, whereas in the schedule there is no land put down as being in the occupation of John Snell. for aught we know, an old description was adopted when the assessment was made out in 1799, and persons were put down as occupiers who had been so once, but had ceased to be so. I see no necessary inconsistency, no impossibility of the lands which are put down as being in the occupation of these persons, embracing the manor. There may have been a demise of the manor or of the waste lands: the manor may have been at one time or the other in the occupation of these persons. I may add, that we do not know the acreage of the manor or of the waste lands, or the rental of the manor; there are no facts whatever stated on this case which enable us to draw the conclusion that the mistake is in one part of the contract more than in another. We must give effect to the words of the contract. The Commissioners say that the proposal is that the contract is to embrace the whole of the manor.

together with the other lands, and that what they mean to redeem 'is rated in the duplicate under the following terms.' We must come to the conclusion that the whole of the manor was exempted—and that would include the waste lands which are the subject of the present action. I think, therefore, that we can only put this construction upon the contract without in effect saying where the error is."

DENMAN, J.: "The only difficulty that has presented itself to my mind in agreeing to the full extent with the judgment of my brother Lush is, that the fifth paragraph of the case finds as a fact, that 'although in the body of the certificate the manor of Chingford and two inclosed groves, containing together by admeasurement twenty-six acres, and the woodland in the aforesaid manor are specifically mentioned as being included among the lands stated to be charged with the Land Tax; neither the schedule to the certificate nor that to the contract, nor the duplicate assessment, comprises the said manor, groves, or woodland, and there is no evidence beyond the statement in the certificate and contract that the said manor, groves, or woodland, ever had been charged with Land Tax.' Therefore I think we are bound to take it that in the . duplicate both to the contract and certificate, these lands are not included, and that they are not to be found among the things stated in the duplicate. But still the question is left open whether there is evidence here upon which we can conclude that these particular lands were really included in the contract. In order to decide that point, the first thing we have to look to is this contract, which was

made on the 29th June, 1799, two years after the passing of the Act under which it was made. It is a contract for the express purpose of redeeming the Land Tax upon the manor of Chingford and two inclosed groves and woodlands. The parties agree that the Land Tax upon these lands shall be redeemed, and in accordance with the Act a certificate is given by the Commissioners in the August of the same year, stating that the manor and manor-house, and the woodlands, and all the disputed parts of the property, are charged with the tax to the amount of 701. 48. The certificate goes on, no doubt, to set out a duplicate which makes out the 701. 48. in a manner which, according to the finding in the case, does not specifically include the land, at least not the manor and the woodlands. How this happened it is not for us to speculate. We are bound by the words of the certificate, and I apprehend that it is a fallacy on the part of the defendants to say that the onus of proof lies upon the other side to make out their exemption. We have the statement upon the face of the certificate that the manor and woodlands, and the other subjects of dispute, are the subjects of a contract for the redemption of Land Tax, and that they have been charged with Land Tax. It is difficult, no doubt, to reconcile that statement with the duplicate; but we do not know how and on what principle the statement was made. It may be that in assessing the value of these lands very little indeed was attributed to the value of the manor, and very little to the waste lands, and yet that in point of fact they have been assessed so that the Land Tax upon them could be redeemed. However that may be, as against the

certificate itself and as against the practice under it, as found in the case, that for a long series of years the tax was not claimed, I think the onus of proof is upon those who contend now that this transaction did not include what was intended to be included in the contract, and which is included in the governing words of the certificate. I think, therefore, in the absence of any clear proof that this manor was not rated and not exempted, we are bound to hold that it was rated and was exempted."

Judgment for plaintiffs.

# No. 5.—Reg. (on the Prosecution of Cookson) v. Land Tax Commissioners for Morpeth, Northumberland.

(See pp. 24 and 30.)

Digest.—This was a Special Case stated for the opinion of the Queen's Bench Division of the High Court of Justice by order of the said Court, dated 1st June, 1876, and with the consent of the parties. Mr. Cookson is the owner of a property called River Green, generally reputed to have been extra-parochial, situate between the parishes of Meldon and Mitford, in Northumberland. For a long time—it was so traced from 1748 to 1873—this, and two other properties known as Edington and Molesden, in the parish of Mitford, had been assessed together in a district or place headed in the assessment of earlier years "Meldon, with River Green, Molesden, and Edington"; and, in those for later years, "Meldon." Since 1806, at least, River Green, Molesden,

and Edington, have been the only unexonerated properties in Meldon district, which district formed part of Castle Ward Division down to 1862, in which year it was transferred with its quota, under 4 & 5 Wm. 4, c. 60, s. 1', to Morpeth Ward Division, where it has since remained. The said properties have, since 1862, been assessed in Meldon, to which quota they have contributed their respective quotas. In 1873, the owner of the property, called Edington, wished to redeem, but the Registrar of Land Tax, finding that Edington was assessed in Meldon, instead of Mitford (in which it was situate), refused to entertain the redemption. To remedy this, the Land Tax Commissioners, in 1873, transferred the properties of Edington and Molesden to Mitford (no part of the quota for Meldon going with them), where, in 1873, 1874, and 1875, they were assessed in aid of the Mitford quota. River Green was thus the sole assessable property left in the district of Meldon. these circumstances, Mr. Cookson, in 1875, appealed before the Land Tax Commissioners, on the ground that they had no power to transfer Edington and Molesden to Mitford, and further that, if they had such power, any transfer should have included River Green, which, by virtue of 31 & 32 Vict. c. 122, 8. 27, had been annexed to and incorporated with Mitford for the purposes of assessing and collecting the Land The Commissioners maintaining the transfer they had made, and declining to transfer River Green, the following questions came before the Court for decision, (1) Whether the transfer made ought to have been made, and if so, whether River Green should not also have been transferred, (2) Whether the assessment of 1875 was good and valid in law. The parties to the suit agreed that if the Commissioners' decision on both

points was upheld the assessment should stand, but that if the Court's opinion was against either decision the assessment should be amended in accordance with such opinion—judgment to be given in conformity thereto, with such costs as the Court may direct. The Court held that these lands ought from the original imposition of the tax to have contributed to the quota for Mitford, but, having by mistake been assessed in Meldon, such a long-standing assessment was as unalterable as the quota itself, and that the said transfer and new assessment must be set aside, and the old assessment restored. Judgment was given accordingly against the Land Tax Commissioners.

[Queen's Bench Division of the High Court, 14th April, 1877. Reported 36 L. T. (N. S.) 376.]

Judgment.—Cockburn, C. J.: "I think this writ of mandamus must be made absolute. If the statutes had from the first been strictly interpreted and acted upon, these lands of Edington and Molesden would have contributed to the quota of the parish of Mitford, but by some mistake they have from the original imposition of the tax been assessed as part of the adjoining parish of It would be in the highest degree unjust that the long established assessment of land in Mitford should be lowered at the cost of the adjoining parish, the quotas of both remaining the same; and it would be monstrous if a transfer causing such an injustice, although by order of the Land Tax Commissioners, could not be rectified. seems to me, however, that by the case which has been cited, we are at liberty to hold that an assessment, so long established as this has been, is as unalterable as the quota to which it contributes. The Commissioners therefore should not have disturbed the usage by which these lands had always been rated and assessed in Meldon, but should have allowed the appeal of the landowner who was interested in the continuation of the old assessment."

Mellor, J.: "I am of the same opinion. It may be that either conclusion must be attended with some injustice, and it may well be contended that the intention was to assess lands in the places where they lie. But I feel we ought to uphold this usage, however it arose, by which the several contributions have become definitely and equally fixed, if we have any authority to do so. I think we may under the case cited, and our judgment will therefore be for the prosecutor, who was the appellant before the Commissioners."

Judgment for the prosecutor.

### No. 6.—COX v. RABBITS.

(See p. 30.)

Digest.—This was an appeal to the House of Lords (from the decision of the Court of Appeal which had reversed a judgment of the Queen's Bench) on a Special Case obtained for the purpose of deciding as to whether or not certain land in St. George South, Southwark (formerly the site of certain Almshouses known as St. Peter's Hospital), was liable to be assessed to Land Tax under 38 Geo. 3, c. 5, and 42 Geo. 3,

The material facts of the case, which originated in an action for trespass for alleged illegal distraint, brought by Rabbits, the present lessee of the land, against the Land Tax Collector, may be summarized thus:—Almshouses had been erected upon the said land about the year 1618, to which additions had been made from time to time till, in 1636, they became known as St. Peter's Hospital. In 1849, by permission of the Court of Chancery, the Governors and Company purchased the fee simple of a plot of ground at Wandsworth (the Land Tax of which was and is redeemed), and removed the hospital thereto. Mr. Rabbits, in 1860, obtained a building lease of part of the former site of the hospital. 1852, the Company also granted a building lease, of the remainder of the old site, to one R. D. Rea. In 1854, without the knowledge or consent of the Company, Rea was assessed to and paid Land Tax on 6001, the valuation of the property leased to him; and in 1860, Rabbits was assessed for his portion, but continually refused payment until 1871, in which year Cox distrained for the whole of the arrears said to be due from him. The Act of Wm. & M. c. 1, passed in 1692, by sect. 25, provides that nothing therein contained should extend to charge any hospital; and 38 Geo. 3, c. 5, s. 29, that hospitals, &c., not assessed to Land Tax on 25th March, 1693, should be exempt therefrom. Queen's Bench the property was held to be liable. On appeal therefrom (Court of Appeal, 30th April, 1877; reported 46 L. J. (N. S.) 498) that decision was reversed in favour of Rabbits.On the final appeal to the House of Lords, their Lordships upheld the decision of the Court of Appeal, viz., that the exemption of the sites of hospitals in 38 Geo. 3, c. 5, from

assessment to the Land Tax, is an exemption impressed upon the land itself, and remains unaffected by the removal of the hospital to another site, and the application of the land to other uses.

[In the House of Lords, 26th March, 1878. Reported 47 L. J. (N. S.) 390.]

Judgment.—The Lord Chancellor: "The question to be decided by your Lordships on this appeal is an extremely short one, and the argument, as it appears before you, is condensed into a very narrow compass. The Court of Appeal, which consisted of four Judges, were unanimously of opinion that the property in question, which was formerly the site of a hospital, but was no longer so, having obtained its exemption from the Land Tax, took that exemption still; and I own that I can see no reason whatever to differ from the decision of the Court of Appeal.

"Now I think the view which has been presented on behalf of the respondent is the correct one; namely, that the intention and the operation of the Act of Parliament, though it is not perhaps in some respects clear in every word, but the intention and the effect of it, was to impose a charge at the time the Act was passed, and then to leave the charge so imposed where the charge was imposed, and as the Act passed there it remained, and where the Act was not in effect to impose a charge no charge could take place, and nothing since has been done to effect a charge.

"Looking at it in that point of view, the 29th section is

perfectly intelligible; and although there may, as between the 29th section and the 25th section, be a certain amount of duplication of enactment, still the object of the 29th section is obvious: 'All such lands, revenues, or rents belonging to any hospital or almshouse, or settled to any charitable or pious use, as were assessed before the 4th year of the reign of their late Majesties King William and Queen Mary, shall be and are hereby adjudged to be liable to be charged towards the payments of this present Act.'

"Now it is admitted that the land in question—the land as to the taxability of which your Lordships have to express your opinion—does not come within this part of the 29th section, because it was not assessed in the 4th year of the reign of William and Mary; but the section then continues: 'And that no other lands, tenements, hereditaments, revenues or rents whatsoever then belonging to any hospital or almshouse, or settled to any charitable or pious use as aforesaid shall be charged, taxed, or assessed under the present Act towards the sum raised, nothing herein contained to the contrary notwithstanding.' Now here we have other land which was then belonging to a hospital, and therefore we have an Act of Parliament declaring, with regard to that other land, that it shall not be charged, taxed, or assessed by virtue of this present Act, and that wholly irrespective of whether it continued to be or does not continue to be land for the preservation or used for the preservation of these institutions.

"This taxing must be construed strictly. You must find words to impose the tax, and if the words are not found which impose the tax, it is not to be imposed. Now it appears to me that so far from there being words imposing a tax here, you have words which it is clear declare that the tax is not to be imposed; and I find nothing to shift to some subsequent period the taxing of this property, or in effect to make this Act subservient to the purpose of imposing a tax on land which in the first instance is declared to be exempt from tax. I therefore propose to your Lordships that this appeal be dismissed with costs."

Appeal dismissed.

#### No. 7.—SIMPKIN v. ROBINSON.

(See pp. 23 and 49.)

**Digest.**—In this case the occupier of a leasehold house in the Borough of Southport (Division of North Meols) Lancashire, was charged thereon to Land Tax, for the year 1878-9, at the rate of one penny in the pound, whereas, owing to the development of the town and the increase in the rateable value, 10th of a penny would have sufficed to raise the quota for the district. The increased rate had been determined upon by the Land Tax Commissioners in order to avoid the difficulty and inconvenience that the 10th would have occasioned in collecting (in many cases the assessments would have amounted to not more than a penny). An additional point in favour of the penny rate was, that the excess it would yield would in four years, if applied under the provisions of the then existing authority (24 & 25 Vict. c. 91, 88. 39 & 40), have the effect of extinguishing the quota. Public notice of

the days fixed for hearing appeals against the assessment was given, but no land tax payer appealed, and in due course the Collector applied for the tax thus levied. Mr. Simpkin, one of those so assessed, refused payment on the ground that the penny rate was excessive and illegal, and upon the Collector distraining brought an action in the County Court against one of the Commissioners (Mr. Robinson) for authorizing the alleged illegal distress. On behalf of the said Commissioner it was there contended, that the Land Tax Commissioners had power, under 42 Geo. 3, c. 116, s. 180, to raise a rate not exceeding 4s. in the pound: that the neglect to appeal in accordance with 38 Geo. 3, c. 5, was fatal to the case then set up: that, by ss. 17 and 23 thereof, all questions arising on the said distress ought to be determined by the Commissioners upon appeal direct to them: that the County Court had no jurisdiction in the matter: and that the Commissioners were not liable to any penalty other than 38 Geo. 3, c. 5, s. 48, The County Court judge overruled these objections, and judgment was given against the Commissioner, with damages. On appeal to the Exchequer Division, however, judgment was given for the Commissioner, thus reversing the decision of the County Court judge, but without costs.

[Exchequer Division, 21st February, 1881. Reported 45 L. T. (N. S.) 224.]

Judgment.—Pollock, B.: "In this case the County Court judge gave judgment for the plaintiff, and directed that it should be entered with costs, and damages 20s., in respect of what is alleged by the plaintiff to have been an

illegal distress put into his premises for the purpose of recovering a sum assessed upon him for Land Tax. From that decision of the County Court judge the defendant in the Court below appealed. Now the distress, it appears, was perfectly regular, so far as the issuing of the warrant and the levying the distress on the respondent's goods are concerned, and indeed in all other respects; and it seems to me to be sufficient for the actual decision of the present case to say that it is brought within the decision in Patchett v. Bancroft (7 T. R. 367), decided in the Court of King's Bench so far back as the year 1771, in which it was held, in an action of trespass for taking the plaintiff's cattle, and which was tried at York, that the person whose cattle were taken could not, if the distress warrant was regular, and the conduct of the officers who executed that warrant was right, go behind the warrant (a), because, the power of distress being legal, those who executed the warrant were entitled to execute it, and justified in so doing. It was further held too, in that case, that the judgment of the Commissioners of Land Tax, on appeal to them, is conclusive in an action of trespass brought against an officer for levying under a warrant of distress. It is to be observed that in that case the Court treat the proceedings as a judgment by the Commissioners of Land Tax, and it may be well also to observe, in passing, that in a case in this Court, or rather, I should say in the then Court of Exchequer, in 1850, in the matter of The Land Tax Assessment for the Holborn Division of the County

<sup>(</sup>a) See also Allen v. Sharp, 17 L. J., Ex. 209.

of Middlesex (5 Ex. 548), on an application being made to the Court of Exchequer for an order or mandamus to the Commissioners of Land Tax to cause the proper charge on a particular division to be equally assessed (b), that Court held, after a very long argument and great consideration, that they had no power to interfere, and upon this ground, namely, that the Commissioners of Land Tax were the constituted authority who had under the statute to deal with the matter in question, and that their authority was like the authority of any other Court and could not be appealed against, except under the provisions of some statute which had so provided. Now it may at first sight seem to be somewhat hard, as no doubt everyone who heard what the plaintiff, Mr. Simpkin, said in this case will understand and appreciate, and as he feels it to be, that the Commissioners should not be in any sense responsible for their acts, but the answer to that is, that the Land Tax Commissioners are chosen from persons of position in each county or division, and are persons who are in every way responsible, and any objection to their appointment may be made, and if there be any irregularity or impropriety in the assessment of any particular division an appeal may be made to those Commissioners whose authority and whose judgment, to use the language of that case in the King's Bench, in 7 Term Reports, is conclusive, exactly in the same way as the judgment of the Commissioners of Tithes or of other taxes is made in

B.

<sup>(</sup>b) But see case No. 2, p. 130, referred to p. 23, note (h).

any other case. That being so, it only remains to say that the complaint against the assessment is one which, no doubt, is somewhat astonishing. It is, that whereas the nominal sum or quota to be raised out of this particular division of Southport is only 90l. 18s. 101d., yet, because of the great increase in value by reason of building which has taken place in recent years in Southport, the Commissioners have thought fit to raise 8471. 5s. 6d., not, of course, pocketing that largely increased sum or handing it over to the Crown, but giving to the persons upon whom they so levied it the full advantage and benefit of it in this sense, that, under the Act of 24 & 25 Vict. c. 91, ss. 39, 40 (c), in the course of a certain number of years (in the present case it was said to be four), the Land Tax on this district would, if this quota continues to be paid, be wholly and entirely extinguished. It is considered to be a better mode and less vexatious and troublesome to the taxpayer that a large quota should be taken for a few years, so as to wholly extinguish the tax after that certain number of years, than to go on perpetually taxing and entering into people's houses under distress for amounts that might perhaps be under one-tenth of a penny in the pound. That, it is said, is the reason why this course was adopted. But there is always this to be said, whatever the Commissioners may be, that Commissioners, like all other persons to whom authority is delegated in this country by the Crown, are responsible, and can only exercise their duties in the proper way. If the Commissioners in this case or in any other

<sup>(</sup>c) Now sect. 114 of T. M. A.

case have committed any dereliction of duty, for that offence they may be made liable to an indictment, or possibly to a criminal information, as the case may be. In the present case, however, it appears that the quota was established; and then, without going into details, it is only necessary to say that the proper course for any person objecting to that quota to take was to proceed under the sections of the 38 Geo. 3, c. 5, which contain provisions relating to appeals in case either of inequality I need not go through them, for they were or excess. fully and at length referred to by Mr. Fullarton. are contained in sects. 8, 17, 23, and 84. sections show most clearly that the Legislature has given a constituted authority to which appeals may be made, and that if no appeal is made, and the rate stands, then the rate which is assessed is to be considered as the rate payable under the judgment of the Commissioners; and thus those who act as mere ministerial officers of the Commissioners are protected by the flat of the Commissioners. That seems to be the result of the whole matter; and it is, I think, sufficient to say that, had the several sections of the Act of Parliament, and the cases which have been cited before us to-day, been brought to the attention of the learned County Court judge, he certainly could not have come to the conclusion to which he did come. have been brought to our attention here, and we are now clearly of opinion that the judgment of the County Court judge cannot stand, and that it must be reversed; but we do not think it is a case in which we should give costs.

There will therefore be judgment for the appellant without costs.

Judgment for the appellant, reversing the decision below, without costs.

### No. 8.—CARR v. FOWLE.

(See p. 22.)

**Digest.**—This was a Special Case, stated by order of Master Kaye, in an action brought by the Vicar of Marden, Kent, against the Land Tax Collector, to recover 171. 108. 4d. (paid under protest) in respect of Land Tax on the new rent-charge which, by virtue of 49 & 50 Vict. c. 54 (the Extraordinary Tithe Redemption Act, 1886), was substituted for the old extraordinary tithe. Plaintiff claims that such new rent-charge is exempted from the Land Tax. Defendant contends that it is liable, basing his contention on the absence of any express mention of Land Tax amongst the charges from which it was relieved by sect. 4, sub-sect. 5, wherein it is enacted that—" . . . . The said rent-charge shall not be subject to any parochial, county, or other rate, charge or assessment." The Court, however, upon their construction of sect. 3, which created the rent-charge, and which says: -- "For the purpose of estimating the capital value of the said charge, the Commissioners shall take into consideration the net annual value of the same, after allowing for the expenses of collection, rates, taxes (except income tax), and other outgoings. . . The Commissioners shall then determine and certify under

their seal the capital value of the said charge, and the value so certified shall, for the purposes of this Act, be the capital value of the charge . . . . "—decided that the new rent-charge is not subject to assessment to Land Tax, and gave judgment for the plaintiff accordingly.

[Queen's Bench Division of the High Court, 16th January, 1893. Reported 62 L. J., Q. B. (N. S.) 179.]

Judgment.—DAY, J.: "In my opinion the plaintiff is entitled to judgment. The rent-charge, which by the Act of 1886 (1) was substituted for the extraordinary tithe, is exempt from Land Tax. This results from the construction to be put on section 3 of that Act, which must in logical order be considered and read before section 4-not only because it stands first in order of place in the Act, but in order of thought also, as a subject of thought. The subject to be dealt with was the new rent-charge. That was created by section 3, which directed how the calculation—the base of the charge—was to be made. The words are: 'The Commissioners shall take into consideration the net annual value of the same, after allowing for the expenses of collection.' First, the expenses of collection were to be deducted in order to arrive at the capital value of the land. It was anticipated that the parson would thereafter experience no difficulty in collecting, whereas before it cost him some difficulty and some It was therefore fair that the expenses of collection should be deducted. Allowance was also to be made by the Commissioners for 'the rates, taxes (except

income tax), and other outgoings.' The new charge being left subject to income tax, that tax ought to be included in the valuation of the capital value. It has been argued for the defendant that one ought to read section 4, subsection 5, before section 3—the later before the earlier section—and that in section 4 there was no exemption from the Land Tax. That was true; but reading the sections in their right order the argument failed. section 5 of section 4 was intended to exempt the rentcharge from county and parochial assessments; not to prevent Parliament assessing it in the future. Its being exempted from county and parochial assessments did not make it liable to Land Tax, nor was such liability to be inferred from the absence of any mention of Parliamentary assessment in section 4, sub-section 5. It would be great injustice if, after deducting Land Tax, in calculating the eapital value of the sum on which the rent-charge was based, the rent-charge owner were to be charged with payment of Land Tax on it. Nothing but clear and express words to that effect should compel a Court to come to such a construction. There are no such words The plaintiff is entitled to judgment."

Collins, J.: "I am of the same opinion. Section 3 of 49 & 50 Vict. c. 54 (1) directs the manner in which the capital value is to be calculated. Land Tax was clearly to be one of the items of value to be deducted. This followed from the fact that income tax was excluded. There was nothing which superimposed a liability which up to that section did not exist. Sub-section 5 of section 4 did not, for it was a relieving clause. The case of *The* 

Waterloo Bridge Company v. Coward (a) did not decide that the words 'other rate, charge, or assessment' could not include Land Tax, as the words in that case were 'any parochial rates or assessments whatever.' The word 'other' was wide enough to include Land Tax. In this case the rent-charge should come to the Vicar exempted from liability to Land Tax; and there must be judgment for plaintiff, with costs."

Judgment for plaintiff.

# No. 9.—Metropolitan Railway Company v. Fowler and others.

(See p. 23.)

Digest.—The part of the Railway with which this Special Case was concerned, was opened for traffic on the 26th September, 1882, in December of which year the company were for the first time assessed to Land Tax in respect of a certain portion of their tunnel which was underneath a public street in the City of London. On the Collector demanding payment of this tax in January, 1883, the company refused, and appealed to the Commissioners, but their appeal was dismissed, and payment being still refused, in November of that year the Collector distrained. The distress was subsequently replevied, and on 17th December, 1883, the company served the Commissioners with a writ for trespass, &c.; and pursuant to Order XXXIV. of the Rules of Court, 1883, both parties

<sup>(</sup>a) 1 E. & E. 213.

agreed to state a case for the opinion of the Queen's Bench Division. In that Court the case was eventually heard on the 26th January, and judgments were given on the 14th May, 1891:—Vaughan Williams, J., holding that the Company were not liable, having no property, beyond an "easement" in the land tunnelled through; and Cave, J., holding that they were liable because their Special Act of 1879. (42 & 43 Vict. c. 201, 88. 2, 5, 6, 17), gave them rights which could not be distinguished in law from the ownership of the soil occupied by the tunnel; that is to say, their title was of the nature of a "hereditament" and not merely an "easement." This latter opinion being that of the senior of the two Judges, effect was given thereto, and the appeal was dismissed.

Thereupon the case was carried to the Court of Appeal, where it was heard on the 12th and 13th November, and 18th December, 1891. The Court, consisting of Lord Esher, M. R., Lopes, L. J., and Kay, L. J., decided (Lopes, L. J., dissenting) that the tunnel was a "hereditament" within the meaning of 38 Geo. 3, c. 5, s. 4, and that therefore the plaintiffs were liable to Land Tax in respect of such "hereditament." The judgment of the Queen's Bench was thus affirmed, and the appeal dismissed.

From this decision the company finally appealed to the House of Lords, where the case was heard on the 10th, 11th, and 27th July, 1893, before the Lord Chancellor (Lord Herschell), Lord Watson, Lord Ashbourne, Lord Morris, and Lord Shand, whose views were substantially those already expressed by the Court of Appeal: the order appealed from

was unanimously affirmed, and the appeal dismissed with costs.

[The Court of Appeal, 12th and 13th November, and 18th December, 1891. Reported 61 L. J., Q. B. (N. S.) 196.]

Judgment (Court of Appeal).—LORD ESHER, M. R. (on Dec. 18): "The question in this case is whether the Metropolitan Railway Company are liable to pay Land Tax in respect of a tunnel on their railway. Now the first point to consider is, what is the legal interest of the company in the tunnel, or in the ground it occupies? Is it a mere 'easement,' or is it a 'hereditament'? The distinction between the two has been well expressed by Lord Justice Lopes in Reilly v. Booth (a). If the interest which the owner has is an interest in land which is his own, that is a hereditament. An easement, however, is a right which a person has over land which is not his own. A man cannot have an easement over his own land. Can it then be said that this tunnel was a mere right of way? Clearly not, because it belongs to the company, and is made on land of which they are the owners. The company have an interest in the land and in the tunnel. It is not, therefore, an easement, but a hereditament in the ordinary legal sense of the term.

"Then we have to consider what it is in regard to the statute 38 Geo. 3, c. 5, s. 4. Now is this interest in land, which is a hereditament in the ordinary sense, a matter in respect of which the owners are bound to pay Land Tax?

<sup>(</sup>a) Law Rep., 44 Ch. D. 12, at p. 26.

It is obvious that with regard to such an interest as a tunnel one person may own the tunnel and another the' surface of the land. It may well be that, as in the present case, a railway company may be entitled to a tunnel, but not to the surface. It is a statutory right. It has been argued that the company, if they had the surface, would be taxable in respect of it, and that they might, if they liked, have redeemed the Land Tax in respect of the surface, and that that would free the land from Land Tax to the centre of the earth, and that, therefore, the land in which the tunnel was made would have been redeemed. If that is so, it was said that the company would have paid Land Tax in respect of the land, and would, according to the respondent's contention, have to pay it again. That was no doubt a strong argument, but, in my opinion, the answer to it is this: if the land is in its ordinary normal condition, without any separate and distinct taxable interest below the surface, redemption of the surface redeems the subsoil; but if there is a separate and distinct interest in the subsoil, that interest is not, in my opinion, redeemed by the redemption of the surface. Suppose, for instance, there was a mine below the surface undiscovered at the time the surface-owner redeems, he would only redeem the land in its ordinary condition. It is not correct to say that he would thereby have redeemed the mine-a new and distinct interest—when discovered. However that may be, the Act is clear to show that one person may be taxed for the surface, and another for a mine beneath it. Mines are clearly taxable by the express terms of the Act, whether the surface has been redeemed from Land Tax or

## DIGESTS OF CASES, AND JUDGMEN

But the section goes on to include as hereditaments, of what nature or kind soeve Those words, according to the ordinary rule of construction, mean all hereditaments of the same kind and description as the things that precede—namely, things below the surface. The land is therefore to be taxed as if it were ordinary land; but, irrespective of that, any distinct interest which is below the surface is also to be taxed if it is an interest of the same kind as a mine. I think that the tunnel in the present case was a hereditament, and that it comes, therefore, within the very words of the section, and that the company are liable to be taxed in respect of their interest in it, since it is a hereditament of the same kind as a mine. I put a case during the argument in which I should have no doubt that there would be a taxable interest below the surface. If a person were to enter upon the face of a perpendicular cliff at the seaside and to excavate it, and to place there a valuable property, as, for instance, a casino, to which people might go for their amusement, that would create a valuable interest in the land below the surface which would be subject to Land Tax, although the same or another owner were taxable in respect of the top of the cliff, and in respect of the cliff itself, so far as there was no distinct interest in it. For these reasons I agree with Mr. Justice Cave that the company are taxable in respect of this tunnel."

Appeal dismissed.

[In the House of Lords, 10th, 11th, and 27th July, 1893. Reported 62 L. J., Q. B. (N. S.) 554.]

Judgment (House of Lords).—The Lord Chancellor: (Lord Herschell): "The only question which arises in this appeal is whether the appellants are liable to Land Tax in respect of a tunnel constructed by them which forms a part of the works of their railway system. The tunnel was constructed under an Act of the year 1879, the Metropolitan and District Railways Act, which authorized the construction of certain lines of railway. By the 16th section of that Act it was provided that 'with respect to any lands which the two companies are by the provisions of the Act authorized to enter on, take, and use for the purposes of the railways' 'the two companies shall not be required whofly to take those lands, or any part of the surface thereof, or any cellar, vault, or other construction therein or thereunder held or connected with any house in any such street, road, or highway, but the two companies may appropriate and use the subsoil and under-surface of any such roadway or footway, and if need be they may purchase, take, and use, and the owners of and other persons interested in any such vault, cellar, or arches shall sell the same for the purposes of the railways.'

"Under the powers thus conferred the company constructed under a roadway the tunnel in question, not being compelled, as will be seen by a consideration of the terms of the Act, to purchase the land in the ordinary way. They were empowered to purchase and take any vaults, cellars, or arches which it might be necessary to interfere with in passing under the roadway for the purpose of constructing the railway. It is not necessary to enter upon a description of the tunnel. It was of the kind ordinarily

found in such works, of very considerable thickness, and of dimensions sufficient for ordinary railway purposes. The question is whether that tunnel—which I do not think it can be doubted is the property of the railway company—is taxable under the provisions of the Land Tax Act.

"The 4th section of that Act provides 'that all and every manors, messuages, lands and tenements, and also all quarries, mines of coal, tin, and lead, copper, mundic, iron and other mines, iron mills, furnaces, and other iron works, salt springs and salt works, all alum mines and works' under these properties, 'and all fishings, tithes, tolls, annuities, and all other yearly profits, and all here-ditaments of what nature or kind soever they be, situate, lying, and being, happening, or arising within the several and respective counties, cities, boroughs, towns, or places aforesaid respectively or within any parts of the same,' 'shall be charged with as much equality and indifference as is possible by a pound rate for or towards the said several and respective sums by this Act set or imposed.'

"It is obvious, upon reading the terms of the section to which I have just called your Lordships' attention, that for some reason or other there is very considerable repetition—that some of the expressions, wide expressions, that are used are sufficient to cover some of the narrower and more limited descriptions of property referred to in the later part of the section. Why some such subjects were specifically mentioned and others left unmentioned it is needless to conjecture; but it is quite certain, when one reads the whole of these words, that there is no principle

upon which there is any justification for cutting down the general words used, and arriving at the conclusion that property which comes within the description of the more general words is to be exempt from taxation because it is not specifically mentioned. The words which are used are undoubtedly very extensive in their operation if they have their natural and ordinary meaning given to them—'all lands and tenements,' 'all hereditaments of what nature or kind soever they be, situate, lying, and being' within the several and respective counties.'

"The main contention, indeed I think I may say the only contention, which was really pressed upon your Lordships was this, that, having regard to the provisions of the Railway Act to which I have called your Lordships' attention, the appellants in reality had only an easement that no tenement or hereditament was vested in them, and that, their rights being confined to rights of easement, or in the nature of an easement, the terms of the taxing Act in no way applied to them. In support of this view they relied upon the case of The Chelsea Waterworks Company v. Bowley (a), which came before the Court of Queen's Bench some years ago. In that case it was decided, upon the terms of the particular statute relating to the waterworks then in question, that the water company, in respect of their right to lay pipes for the purpose of carrying a stream of water through certain lands, had no interest in the lands, but had only an easement over them. quite unnecessary to inquire whether, upon the true con-

<sup>(</sup>a) 17 Q. B. Rep. 358; 20 L. J. Rep. M. C. 520.

struction of the Waterworks Act in relation to the facts of that case, a correct conclusion was arrived at in determining that the water company possessed an easement only. It is certainly a little difficult to reconcile some of the expressions used in that case with those used in The Queen v. The East London Waterworks Company (a). I do not propose to enter upon any further discussion of those cases, because the ratio decidendi in the case of The Chelsed Waterworks Company v. Bowley (b) was distinctly this, whether right or wrong, that the water company had no greater rights than those which are possessed by a person entitled to an easement, and that they had no interest in the land. If in the present case the right of the railway company was to an easement only, I should be quite ready to follow the decision in The Chelsea Waterworks Company v. Bowley (b), and to hold that that easement could not be made subject to the payment of Land Tax. But after carefully considering this matter I have come very clearly to the conclusion that the railway company have not merely an easement, but that they are the owners of a hereditament, and that whether the hereditament which is held by any person be upon the surface or below the surface, that hereditament is, by the terms of the statute, made subject to the payment of Land Tax.

"That the statute does contemplate tenements and hereditaments below the surface being subject to Land Tax is perfectly clear from a perusal of the section, because mines,

<sup>(</sup>a) 21 L. J. Rep. M. C. 174.

<sup>(</sup>b) 17 Q. B. Rep. 358; 20 L. J. Rep. M. C. 520.

which are ordinarily, as distinguished from quarries, below the surface are undoubtedly expressly named and made subject to Land Tax, and therefore when the words 'all hereditaments of what nature or kind soever' are found following the specific description of hereditaments, some on the surface and others below the ground, there cannot be the slightest reason for confining the general expression 'all hereditaments' to hereditaments on the surface any more than to hereditaments below the surface.

"The question, What is the nature of the right possessed by the railway company with regard to this tunnel? depends of course upon the construction of the 16th section of the Railway Company's Act. The main object of the 16th section was to prevent the railway company from being put to the expense of purchasing land, the owner of which it might probably be very difficult to ascertain, and which was of no practical value to any one-namely, the land which lay below certain streets in this metropolis. Even if they touched the cellars of some houses bordering on the streets, they were not to be bound to purchase the whole of the tenements with which those cellars were connected, but might take the portion of the land built upon which they required for the purposes of their tunnel upon making compensation and becoming purchasers of so much land as they required.

"Now the language they used is this—that 'the two companies may appropriate and use the subsoil and undersurface of any such roadway or footway.' The word 'appropriate' is one which seems to me clearly to point to the right to the property becoming vested in the

companies—they were to 'appropriate and use;' and it seems to me that when they have thus appropriated and constructed the tunnel, that tunnel is as much their property as if it had been constructed upon land which theyhad purchased and paid for; and that, being their property, held by them to the exclusion of any other person, it is as much a hereditament as if it had been constructed on land which they had purchased in the ordinary way. Supposing that a part of the tunnel were to pass through what had been a vault or cellar, the portion of the land forming that part of the tunnel would have been purchased in the ordinary way; and this result would follow, I suppose, if the contention of the appellants were adopted, that as regards that part of the tunnel there would beproperty, and as regards the rest of the tunnel there would be an easement only. I do not think that that would be a reasonable construction of the section. Itseems to me that its terms, and what was intended to be done, and what was done under it, negative the idea that it was intended to give the railway company only an easement.

"The appellants naturally placed great reliance upon the language of the 17th section, the section which follows the one upon which I have just been commenting: 'Nothing contained in the section of this Act with respect to underpinning or otherwise strengthening houses near the railways or in the section of this Act authorizing the two companies to acquire easements only under roads, &c., and purchase cellars, &c., nor any dealing with the lands in pursuance of those sections or either of them, shall relieve

the two companies from the liability to compensation · under the 68th section of the Lands Clauses Consolidation Act, 1845.' No doubt the rights which the companies were entitled to acquire are there spoken of as 'easements.' I think that the use of that word in that section is altogether inaccurate; but the section really was not intended at all to define the rights-it was intended to provide that, notwithstanding the rights which they were to acquire under previous provisions of the Act, they were to be liable to pay compensation under the 68th section of the Lands Clauses Act. Of course, for the purpose of that section it was quite sufficient to use any language which would indicate the earlier provisions of the Act to which reference was being made; but it seems to me impossible, having in view the object of the 17th section, to come to the conclusion that, because the word 'easement' is there used, the effect of the 16th section is to give an easement only.

"For these reasons, it appears to me to be clear that the ground relied upon on the part of the appellants fails; that the railway company were entitled to something more than an easement; that this tunnel was a hereditament within the words of the Land Tax Act; and that therefore this appeal ought to be dismissed; and I move your Lordships accordingly."

LORD WATSON: "In order to sustain the assessment for Land Tax, of which the appellant company complain, the respondents must, in my opinion, show, in the first place, that the interests of the company in that part of their railway which passes below the highway known as The Crescent, Minories, is an interest in the land, and not a bare easement; and, in the second place, that such interest comes within one or other of the classes of property enumerated in section 4 of 38 Geo. 3, c. 5. If these propositions are established, it appears to me that the decision of the Court of Appeal must be affirmed.

"The nature of the company's interest depends upon the provisions of the Acts authorizing their undertaking. these they are empowered, for the purpose of constructing the tunnel which carries their line beneath surface land, which is not a highway, to enter upon and, subject to the provisions of the Lands Clauses Consolidation Act, to take and use so much of the lands delineated on the deposited plans as they may require. It does not admit of doubt that they have a real interest in land so taken and used. But a different enactment is made with respect to land required for the same purpose which is under the roadway or footway of any street, road, or highway. In that case it is not necessary for the company to acquire the subsoil by agreement or compulsory purchase, except in so far as it is occupied by a cellar, vault, or other construction; and where such constructions are connected with a house, or other building, it is declared that their purchase shall not be deemed to be the purchase of part of a house or building within section 92 of the Lands Clauses Act. Where no such underground constructions exist, they are authorized, without purchase or compensation, to 'appropriate and use the subsoil and under-surface of any such roadway or footway.'

"There was apparently no cellar or other building which the company required to purchase under the highway of The Crescent, Minories; and they accordingly appropriated and used a considerable portion of the subsoil for the construction of a substantial brick tunnel, which they now occupy as part of their railway. The tunnel has become pars soli in the strictest sense of the words. had been constructed by one who was proprietor a centro usque ad cœlum, it would have passed in the absence of exception with his conveyance of the land. As matters stand, the owners of the soil, whoever these may be, are practically divested of interest in that part of it which has been converted into tunnel. They have no right to occupy or to interfere with it in any way whatever; and their exclusion is not for a period limited, but for all time coming.

"To appropriate, according to its natural meaning, is to take and keep a thing by exclusive right; and, as I construe their Act, the authority which it confers upon the company is to take and exclusively possess as much of the subsoil below highways as may be required for the purposes of the undertaking. There is no substantial distinction between the interest which they get by appropriation and that which they acquire by purchasing in terms of the Lands Clauses Act. It may be that, if their railway undertaking was wholly abandoned, their statutory title to the subsoil of highways would cease, and the land which they possess by virtue of it would revert to the original owner. But their Acts give them an interest in perpetuity, if they choose to avail themselves of it; and,

at all events, until abandonment actually takes place, the quality of their purchased and of their appropriated rights will, for all practical purposes, be identical.

"I think it right to notice that, in one of the clauses of their special Act of 1879, the interest of the company in strata underlying a highway is referred to as an easement, which is a mere burden upon the proprietary right of the owner in fee. It may consist either in restraining, for the benefit of the dominant tenement, certain uses which its owner might otherwise make of the servient land, or in compelling him to submit to uses of that land by others which are not incompatible with his retaining the right of property. In this case, so long as the tunnel is used for railway purposes, the interest of the owner from whom it was appropriated appears to me to be entirely ousted. And I am of opinion that, in the present question, regard must be had to the substance and true legal character of the interest conferred upon the company by statute, and not to general terms occurring in the statute which inaccurately describe it. If the company's interest have, in law, constituted a mere easement, I do not think the respondents could have derived any advantage from its being described as an interest in land.

"Is, then, the interest of the company, being an interest in land, within any of the classes of heritable right, corporeal or incorporeal, which are made liable to the incidence of the Land Tax by the Act of 38 Geo. 3? The answer to be given to that question does not appear to me to be attended with doubt. I think the tunnel is as much 'land' as the highway itself, or any other part of the soil beneath it. I also think that it is a 'tenement' within the

meaning of the Act. And, if I were wrong in both these conclusions, I should still be of opinion that it fell within the category of 'all hereditaments, of what nature or kind soever they be.'

"It was argued that the Act of 1797 applies only to the surface of land and to buildings erected upon it, and that, whenever the surface is taxed or is exempted, as in this case, by reason of the use to which it is put, no tax is exigible in respect of buildings below the surface. I can find no solid foundation for that argument, either in principle or in the language of the Act. A construction in or below the land is as much a part of it as an erection on its surface. A cellar below a public footway is as much a tenement as the dwelling-house to which it is appurtenant; and I can see no reason for holding that, should they be severed in title, the one would not be as much a hereditament as the other. If the tax were redeemed by the owner of the land, at a time when there were no buildings upon it, I think that buildings subsequently constructed, whether above or below the surface, would be enfranchised. "For these reasons, I concur in the judgment which has

"For these reasons, I concur in the judgment which has been moved by the Lord Chancellor."

Torn Assessment: "I also concur. The statute 28

LORD ASHBOURNE: "I also concur. The statute 38 Geo. 3, c. 5, made the Land Tax perpetual, and the amounts payable by each locality charged are clearly fixed. The object throughout is that the properties liable shall be charged with 'as much equality as possible by a pound rate.' It is manifest that, if any property is given an immunity, it will be a hardship on all other properties liable to the tax, and it would require clear words to give such an immunity. This is not denied; but it is asserted

that this tunnel is not property in land—is not an interest in land—but is merely an easement.

"I concur with Mr. Justice Cave and the three judges of the Court of Appeal that the railway company took more than an easement; they took an interest in land—taking a practically perpetual right of exclusive possession in the tunnel. The case of Reilly v. Booth (a) supports this view; the words of Lord Justice Lopes there are in point: 'The exclusive or unrestricted use of a piece of land' beyond all question passes the property or ownership in that land, and there is no easement known to law which gives exclusive and unrestricted use of a piece of land.'

"Arriving at the conclusion that this tunnel is an interest in land, and within the Act of 38 Geo. 3, I can see no kind of reason why it should not be charged with the Land Tax, particularly as its exclusion would increase the charge on other payers of the tax. I only desire to add that, as at present advised, I do not think that all the reasons given in the case of The Queen v. The East London Waterworks Company (b) can be easily reconciled with all the reasons given in the case of The Chelsea Waterworks Company v. Bowley (c)."

LORD MORRIS: "I concur."

LORD SHAND: "I also concur."

Order appealed from affirmed, and appeal dismissed with costs.

<sup>(</sup>a) L. Rep. 44 Ch. D. 12.

<sup>(</sup>b) 21 L. J. Rep. M. C. 174.

<sup>(</sup>c) 17 Q. B. Rep. 358; 20 L. J. Rep. M. C. 520.

# No. 10.—\*Reg. v. Land Tax Commissioners for the Hundred of Ivychurch, Kent.

(See p. 24.)

Digest.—This was a Rule to the Commissioners to show cause why they should not "hear and determine" an appeal of the Rector of Ivychurch against the assessment in respect of his tithe rent-charge. It transpired that the Assessor had resorted to the Poor Rate assessment to ascertain the "true yearly value" of the lands, &c., and, as representing (in his opinion) such "yearly value," had taken the figures in the gross rental column for his Land Tax Assessment, and had in this way assessed the Rector's tithe rent-charge at 3151. (From some unexplained cause there was a slight discrepancy between the figures of his assessment to Land Tax and those in the gross rental column of the Poor Rate. This point. however, has no material bearing on the Rule, and it is merely mentioned here because it is referred to in the judgment.) The Rector duly appealed before the Commissioners, and contended that if the Poor Rate was resorted to, the Assessor ought to have adopted the figures shown in the "rateable value" column thereof; but that if that were not resorted to, the Commissioners should examine, and allow or disallow, certain expenses which, the Rector claimed, ought to be deducted from the actual amount of his average receipts in respect of the tithe rent-charge. The Commissioners, however, decided that the principle of assessment adopted by the Assessor tended to promote as much equality and indifference as possible, and was in compliance with the statutes, and they accordingly confirmed the assessment. The Rule to show cause, &c., was then obtained on behalf of

the Rector. The points contended for on both sides, although not dealt with in the judgment, are very important. For the Rector, attention was called to sect. 180 of 42 Geo. 3, c. 116, which prescribes that all lands, &c., then unexonerated were to be assessed upon the "annual value" thereof. It was contended that it had been judicially decided that the term "annual value" meant "net rateable value," the cases of Dobbs v. Grand Junction Waterworks Co., and Reg. v. Commissioners of the Tower Hamlets being cited. It was also contended that the Commissioners had not legally "heard and determined" the appeal. For the Commissioners it was pointed out that sect. 180 of 42 Geo. 3, c. 116, directed that lands, &c., then unexonerated, were to be assessed according to the rules and regulations of 38 Geo. 3, c. 5; and that the latter act enacted that the lands, &c., were to be charged upon the "true yearly value" thereof; and that sect. 4 of the parent Land Tax Act, William and Mary, c. 1, had defined "true yearly value" to be the "rack-rent," without making any abatement for "reparations, taxes, parish duties, or any other charges whatsoever." It was submitted that the assessment had been made upon a proper principle, and that the appeal had been heard and determined by the Commissioners and that such determination was final. Court, while expressing their opinion that the term "annual value," as used in sect. 180 of 42 Geo. 3, c. 116, meant "net annual value," held that the Commissioners had heard and determined the appeal, and that their decision, right or wrong, They therefore discharged the Rule.

[\*Queen's Bench Division, 19th February 1894. Digest and Judgment taken from the shorthand notes lent by Mr. Sydney Knox, Counsel for the Commissioners. Report not yet published.]

1

Judgment,-Mathew, J.: "It seems to me that this assessment was improperly made in the first instance, and was not made in accordance with 42 Geo. 3, c. 116, s. 180. The assessment should be made throughout on the net annual value, and not as it was made. As a matter of fact, the gross annual value appears to have been taken from the rate book, and in this particular instance (it is a singular circumstance) there was an entire mistake as to the gross annual value. They have put it at less than the right sum. The Commissioners having had the matter brought before them, appear, when they dealt with the matter, to have thought that if they yielded to the objection made on the part of the Rector the result would be an inequality in the rate, because they assumed throughout that the rate was made on the assessment of gross annual value.

"That being so, this remedy the Rector has had recourse to, is one not available to him. The Commissioners have done their best. They appear to have gone wrong; but that does not matter. There is no appeal from them.

"However, we think it right to intimate our view as to the proper construction of this Act of Parliament—as to how the assessments should be made in future, not by the "gross" but by the "net" annual value.

"As there is a grievance in this case, we think the Rector was justified in his appeal to the Commissioners, and was justified in bringing the matter before us and asking for our opinion as to his rights. That being so, we discharge the Rule, but discharge it without costs."

CAVE, J.: "I agree."

Rule discharged.

\*.\* The reference to the number of any page includes the footnotes thereon.

Ават	EMENT:							]	Page
(	Commissione	rs ma	v abate	Asses	sments	on pe	rsons	over-	
	charged	•	,	••	••		••	••	42
Acrio	ons: Against Coll	ectors :	may be	defen	ded by	Comm	issione	æ	48
	of Parliami he principa		Tax	••		••			20
	NISTRATORS: Entitled to I to regist of Land	er Let						•	67
A nwo	wsons:								
	of Land	•	veyan	e of L	ands s	old for	redem	ption	75
AGENT	r : ouly authoriz	zed, m	ay sign	Decla	ration	to rede	em.	107,	122
	ments: etween Lan	dlord s	nd Te	nant n	ot to be	affect	ed	••	25
Ацот	MENTS UNDE	r Incl	OSURE	Acrs:					
М	ade in resp been rede	ect of emed,	Lands not as	wher sessabl	е		••		32
	n respect of not charg n respect of	eable	••		•••		••	••	ib.
	not charg	eable	• •				••	••	ib.
м	Land Tax					_	-	78,	79
ALLOW.	ANCE:								
Of	4s. in the £	on Cl	nief Re		d Fee I	arm R	ents	••	28

ALMSHOUSES:	1	age.
As to their exemption from Land Tax		31
Tenants of, assessable	• •	ib.
Exemption of, see Case No. 6	• •	162
ALUM MINES AND WORKS:		
Assessable	••	22
AMBASSADORS:		
Tax on houses occupied by, to be paid by Landlord	• •	26
ANNUAL PROFITS:		
Not distrainable, may be sold to cover default in pays	ment	
of Land Tax charged thereon	••	48
Annual Value:		
Of Lands in 1798	• •	12
Poor Rate generally taken as the basis of	••	24
What is, see Case No. 10	•••	192
Annuities:		
Chargeable to Land Tax		22
Deduction for Land Tax on		27
Appeals:		
Times and places for hearing, to be fixed by Com	mis-	
sioners, and notice to be given to Collectors		40
Notice of, to be fixed on church doors		41
Cannot be heard until Assessment has been signed	and	
sealed by the Commissioners		ib.
Notice to persons intending to appeal		ib.
Persons intending to appeal to give notice to Assesso	rs	ib.
Appellants may have the assistance of their legal	ad-	
visers, and may inspect Collector's duplicate		ib.
Once heard and determined, to be final		42
May be made to High Court respecting Division w	here	
Lands are legally liable to be assessed		ib.
How Commissioners to proceed when allowed		ib.
Of any person not to affect Contract to redeem		82
May be made to High Court respecting relief	from	
Double Land Tax $\dots$ $\dots$ $\dots$		58
Owners of exonerated property again brought into	As-	
sessment, not bound to appeal, see Case No. 1		126
To Land Tax Commissioners, re lands overrated, see	Case	
No. 7	• •	166

Appointment:					Ð	age
Of Commissioners					-	36
Of Clerk to Commissioners	••	••	••	••	••	39
Of Assessors and Collectors		••	••	••	••	ib.
Of Commissioners under G		ol fon :	••	tima Ga	••	64
						02
., ,, ,, Livings	,,	iore		ating Si	пяш	90
Tuamks	••	••	••	••	••	33
APPORTIONMENT OF LAND TAX:						
For the purpose of Redem	ption	••	••	•• .	••	117
Area of Parish:						
On which a Quota was fix	ed in 1	798 car	not b	e <b>altere</b>	d	44
ASSESSABLE PROPERTY	••	••	••	••	••	21
Assessment:						
The first		• •			••	6
Inequality of pound rate of	on			••		12
To be made yearly with e	quality					23
,, on annual value, see	Case 1	No. 10		••		192
Year of		• •		••		49
On houses of Foreign Min	isters					26
To be made on Occupiers	of prop	erty cl	argea	ble		27
", ", in District	where	situa	te (b	ut see	Case	
No. 5)			••	••	24,	159
May be rejected by Comm	issione	rs if de	fectiv	е	• •	41
Once signed by Commission	oners, o	annot	be qu	ashed		ib.
Must be signed and se	aled b	y Com	missio	ners b	efore	
Appeals are heard	••		••	••		ib.
Excessive, may be abated	by Cor	nmissi	oners	••		42
Copy to be delivered by A	asessor	duly s	u bscri	ibed		40
Duplicate of, to be deliver	red to (	Collecto	r	••		ið.
Collector's Duplicate of, r	nay be	inspect	ted	••	• •	41
To cease on Parishes who	lly exo	nerated		••		40
Exceeding the Quota, see	Surplu	B	••	• •	2	3, <b>4</b> 9
To stand, see Cases Nos. 2	and 7	• •	• •	••	129	, 166
Should be made and sign	gned b	y Con	missi	oners b	efore	
their Clerk certifies the	he char	ge for	redem	ption		82
On unoccupied property	• •		• •	••	••	47
Double, on Papists		••	• •	••		51
On Land Tax redeemed,	ee Red	eemed .	Land	Tax.		

197

Astrosors:		P	age
How appointed	••	••	39
How appointed for Extra-Parochial Places	••	··•	ib.
Penalty on, for refusing to serve	••	••	ib.
Not compelled to serve out of the City in	which	they	
dwell		••	ib.
To be taxed by Commissioners			40
To deliver Copy of Assessment			ib.
Two, to sign the Assessment			ib.
To return two persons to act as Collectors			ib.
May be fined by Commissioners	3	9, 48	-50
Surplus Land Tax under 51., may be awar	rded to	, b <del>y</del>	
District Commissioners	••	••	<b>5</b> 0
Assignment of Land Tax:			
"Redeemed but not exonerated," how to be r	nade		67
,, , exempt from Stamp Duty			ij.
,, ,, to be registered	•••	•••	ij.
Can be demanded by a person in remainder up			
into possession, see Incumbent	••	69,	74
From Lessees of Corporations	••	••	76
BANK ANNUITIES:			
£21 per cent	••	••	91
BARRISTERS:			
May be heard at Appeals on behalf of Appella	nts	••	41
BARTHOLOMEW'S HOSPITAL:			
Exempt from Land Tax	••	••	30
Benefices : see Livings.			
Beneficial Leaseholder:			
Redeeming			70
BENEFIT OF PREFERENCE			63
_		•	
BETHLEHEM HOSPITAL:  Exempt from Land Tax			30
•	••	••	
Bishops:			
Land Tax redeemed by, with moneys raised			
powers of the Land Tax Acts			75

BOARD OF INLAND REVENUE:—see Commissioners of Inlan		age
BOOKS AND PAPERS:		
Relating to Land Tax, property of the Commissioner	ъ,	
Penalty for retaining them	••	43
BRIDEWELL HOSPITAL: Exempt from Land Tax	••	30
BROWLEY COLLEGE: Exempt from Land Tax	••	ib.
CAMBRIDGE: Colleges and Halls in, not chargeable with Land Tax		29
"CARB v. FOWLE": Case No. 8		172
Cases: Digests of, and Judgments:		
N. 1 (Charleton a Almon)		126
0 ( T ) M		129
0 4/T - 1 Colol asker for a 77		141
A (ITT-Inner to Decree !		150
5 (CD m Commission and for Wormath !!		159
,, 6. "Cox v. Rabbits"		162
" 7. "Simpkin v. Robinson"		166
,, 8. "Carr v. Fowle"		172
" 9. "Metropolitan Rail. Co. v. Fowler, &c."		
,, 10. "R. v. Commissioners for Ivychurch, Kent	ţ"	192
CRETIFICATE OF CONTRACT:—see Contract.		
CERTIFIED COPY OF REGISTRY:		
Made evidence of exoneration of property	72	, 81
CHARITABLE PROPERTY:		
Exemption of		29
Of Institutions, exoneration of		33
Uses, Lands settled to, when assessable and wh		
exempt		, 31
CHARITY LANDS:		
Exempted under the Act to continue exempt, see Ca	180	
No. 6	••	162
Modern Charities, see Case No. 3	••	141

				F	age
"CHARLETON v. ALWAY": Case	No. 1	••	••	••	126
Chases:					
To be assessed		••			22
CHIEF RENTS:					
Allowance of 4s. in the £ on					28
	••	••	••	••	20
CHURCH DOOR NOTICES:					4.5
Of Appeal	• ••	••	••	••	41
CLERKS OF THE PRACE:					
Registry with, of Estates of	Roman (	atholics	••	••	56
CLERKS TO COMMISSIONERS:					
Appointment of		••			39
Newly appointed, should rea	d	••	••	20-	-50
Their duties generally as reg	ards Red	emption	s 1	07—	125
Instructions as to Declarati	ons and	Certifica	tes of :	Re-	
demption		••	1	21—	125
Collection of Land Tax .		••	••	••	46
COLLECTORS OF LAND TAX:					
Appointment of					40
,, for Extra-Pa			•••	٠.,	39
To receive Duplicate and Wa	rrant	••	••		
Warrant		••	••	46	
Warrant of, cannot itself be			••		168
May be fined by Commission	ers	••	39	. 48-	<b>50</b>
Penalties on, how recoverable		••	••		50
Not paying over sums collect	ed		••	••	50
To fix Notices of Appeal on				••	41
To give Notice to persons int	ending t	Appeal	of the	dav	
fixed	_	•••			iò.
Duplicate may be inspected i			••	••	ib.
To demand sums set forth in					
named therein					46
Authorized to levy in case of	refusal o	r neglec	to pay	·	ib.
Empowered to distrain upon					47
May break open in the dayting	me any h	ouse, &c			ib.
Empowered by Commissione					
of the Tithes, Tolls,					
Fisheries, and other an					
as will cover the arrears					48

COLLECTORS OF LAND TAX—continued.	P	age
Advancing his own money may recover the sam	e in the	_
usual course within six months		48
May be defended by Commissioners for anythi	ng done	
in pursuance of the Land Tax Acts (T. M. A	., s. 20)	ib.
COLLEGES:		
Those exempt from Land Tax		29
•	• ••	20
COMMISSIONERS APPOINTED UNDER THE GREAT SEAL:		
For regulating and approving Sales made by		
astical and Corporate Bodies		64
For exonerating small Livings and Charitable		
tions	33–	-35
COMMISSIONERS OF INLAND REVENUE:		
May amend Certificate of Contract containing	Optional	
Clause, and exonerate the Property described		72
May refund Consideration Money on cancelled	Contract	124
m 31		79
To sign Contracts for the redemption of Land Te	ax 83,	108
• • • • • •		82
May cancel Contract and revive Land Tax	79,	82
	44,	
As to application of Surplus Land Tax		49
May empower District Commissioners to discharge		
Land Tax, &c., &c	57,	58
COMMISSIONERS OF LAND TAX:		
How appointed		36
Their qualifications	36,	-
Oaths to be taken before acting	37,	38
Persons who have held the office of Inspector		•
veyor of Taxes cannot act as	•• ••	38
Persons acting as, without being duly qualified,		
Penalty	••	ib.
Two to form a Quorum	••	ib.
0	••	ib.
	•••	40
To deliver Copy of Assessment to Collectors, and		
•	••	ib.
	•• ••	41
May abate Assessments on persons overcharged	••	42

COMMISSIONERS OF LAND TAX (continued):	F	age
To withdraw when interested in questions of Ass		
One to attest Signature to Declarations, and two		
Certificates in the absence of their Clerk,		
Tax Redemption proceedings	122,	125
To cause Re-assessment to be made in case of d	eficiency	47
May impose Fines on Assessors and Collectors	39, 48-	50
May defend Actions against Collectors		48
To tax every Assessor		40
To meet on or before 30th April in each year, as	ad after-	
wards as often as may be necessary		39
Are Owners of all Books and Papers relating	to Land	
Tax		
May transfer Parishes from one Division to an	other in	
the same County		44
May unite Parishes, and dissolve Union, if foun	id incon-	
venient		45
		37
To settle and adjust differences between Land	lord and	
Tenant as to payment of Land Tax		25
To determine as to liability of Lands, &c., belo	nging to	
Hospitals and Almshouses		
To issue Certificate to Commissioners of Inland	Revenue	)
as to disposal of Surplus Land Tax	49	, 50
May award Surplus Land Tax under £5 to Asse	ssors	50
As to power to raise Surplus Land Tax to red	leem Net	:
Charge on the Parish		23
C		
COMMISSIONERS FOR SALE AND REDEMPTION:		
Appointment of	••	68
COMMISSIONERS OF TREASURY:		
To authorize the Transfer of Parishes from one	Division	
. to another		4, 48
Invested with powers formerly exercised by		
sioners appointed under the Great Seal		
	••	
Consideration Money:		
	0, 91, 94	
Tables for calculating amount in Stock and in M		
Amount of, to be governed by the amount of	the Land	l
Tax in the Assessment for the year in w	which the	•
Declaration to redeem is signed		124

CONSIDERATION MONEY (continued):	P	age
When paid, Property to be exonerated from the Quarte	r-	_
day immediately preceding date of payment of	••	91
Reduction of $17\frac{1}{2}$ per cent	• •	90
Increased one-eleventh	• •	91
By transfer of Stock not advisable		82
	• •	83
How raised for the exoneration of Small Livings	••	92
CONSOLIDATED LIVINGS: -see Livings.		
CONTRACT:		
Meaning of	• •	83
Binding on Redemptioner	••	ib.
Discrepancy between Certificate and Schedule of		81
Not to be affected by the Appeal of any other person	••	82
Fraudulent, Land Tax to be revised	• •	83
Erroneous, Commissioners of Inland Revenue to amer	$\mathbf{ad}$	82
May be cancelled by Commissioners of Inland Revenue		ib.
Or a Certified Copy of the Registry thereof, the on	ly	
evidence of exoneration	72,	82
Not advisable to enter into, until the current year		
Assessment is made and signed 82, 11	7,	124
Penalty on Contractor for non-completion		83
Plan of Property described in, if furnished, to be		
Duplicate 10		123
Not advisable to enter into, by transfer of Stock, who		
Land Tax to be redeemed is small in amount, 82, 10		
Persons entitled to enter into a 10	7,	121
•		108
Of Redemption disagreeing with Assessment, see Ca		
No. 4	• •	150
CONTRACTS:		
Between Landlord and Tenant not to be affected	25-	-27
Conveyances:		
Under Redemption Acts, though informal, confirmed		79
COPARGENERS:		
The shares of those who have redeemed their proportion	m	
of Land Tax to be exonerated on partition		32
<del>-</del>	•	
COPPICES:		22

COPY OF REGISTRY:					P	age
Evidence of exoneration	••	••	••	••	72	, 81
CORNWALL, DUCHY OF:						
Land Tax redeemed on La	ands b	elongi	ng to,	to be	con-	
sidered as Rent Reserv		_	•••			77
CORPORATION:						
Of the Governors of the	Charity	for t	he rel	ief of	Poor	
Widows and Children	of Cl	ergym	en, ex	empt :	from	
Land Tax	••	••	••	•••	••	29
CORPORATIONS, ECCLESIASTICAL A	ND PU	BLIC:				
Land Tax redeemed by			••		75-	-78
Costs of Actions:						
Against Collectors to be de	fraved	by ar	Asses	sment.	&c.	
(T. M. A., s. 20)	•	•		••	••	48
COUNSEL:						
Persons appealing against	A gaegg	ment r	nev he	ve the	90-	
sistance of			-	.ve mre		41
	••	••	••	••	••	**
COURT OF QUEEN'S BENCH:	· ·-	_1,,1	T 1			
Appeal to, respecting Divis liable to be assessed				_		
		 (T-:-		 12.64	• • • •	42
Appeal may be made to, real Double Land Tax	_	-		remen 1		E 0
May compel Assignment of	 Tandr			··	•	58
• • •						00
	••	••	••	••	••	69
COVENANTS, CONSTRUCTION OF:						
Between Landlord and Te						
Land Tax	••	••	••	••	25-	-27
"Cox v. RABBITS": Case No.	8	••	••			162
Crown:						
Acting as Trustee for payn	nent of	Land	l Tax '	'redee	med	
but not exonerated"				••		67
Crown Lands:			•			
Tenants of, not entitled to	redeem	Land	Tax o	n		63
Land Tax redeemed on, to b						
See Case No. 3	• •	••		• • • •	.,	
DATE OF EXONERATION:	-	. •	••	••	••	
Of property on which Land	mo-				<b>#</b> C	91
OT DEODRESS OH WHICH TWING	LAKE	ь гичее	unea		7.3.	ыı

DEST ON RECORD:			1	'age
Consideration money to be recovered as	a	••	, • •	83
DECLARATION:				
May be signed by Agent, duly authoris	zed		107,	1 <b>2</b> 2
May be signed and attested by a Distri				
Must be signed in the presence of, an	d attes	ted b	y the	
Clerk to Commissioners			٠.,	107
The signing of the form is the commend	ement	of the	Con-	
tract	• •			83
Date of, to govern year of Assessment	upon w	hich	Land	
Tax is to be redeemed	••	••		124
DEDUCTIONS:				
Of Land Tax by Tenant out of rent	••	• •		25
Where neglected to be so made, claim of	Tenan	t forf	eited	ib.
Of 4s. in the £ on Fee Farm Rents	••	• •		28
Of Land Tax out of Fee Farm Rent or	other a	nnual	pay-	
ment issuing out of lands	••	••	27	, 28
Of Fee Farm Rent	••			77
By Tenant or Lessee at rack-rent not be	ound by	agre	ment	
to pay Land Tax	••	• •	••	78
Question or difference as to, between La	ndlord :	and T	enant	25
DEEDS OF SALE:				
Enrolment of	••			79
Default:				
In payment of Consideration Money				83
• •	•••	•••	•••	-
DEFENCE:				40
Of Action against Collector	• •	••	••	<b>4</b> 8
DEFICIENCY OF QUOTA:				
To be made good by Re-assessment	••	••	••	47
DESCRIPTION OF PROPERTY:				
Full and complete, to be given when	redeer	ning	Land	
Tax	••		107,	108
DETACHED PARISHES:—see Parishes.			•	
DIFFERENCE BETWEEN LANDLORD AND TENAN		_		
As to deduction of Land Tax to be set	tled by	Land	Tax	
Commissioners	••	••	••	25
DIGESTS OF CASES AND JUDGMENTS	••	••	126-	194

DESCRIPTION IN CONTRACT.				-	r was
Between Certificate and Schedule,	, <i>866</i> O	ase No	. 4 81	l, 82,	150
DISSOLUTION:					
Of Union of Parishes	••	••	••		45
Districts:					
For arrears of Land Tax, how ma	de			46	3, 47
When held unlawful	••	••	••	••	ib.
On Lands unoccupied	• •		••		ib.
On Woods	••	••	••	••	ib.
Not to be made on timber trees	••	••	••	••	ib.
DISTRICT COMMISSIONERS:—see Commis	sioner	s of L	and Ta	x.	
DOUBLE LAND TAX:					
History of, and directions as to re	lief fa	om	••	<b>5</b> 1-	58
DUCHIES OF LANCASTER AND CORNWALL					
Land Tax redeemed on lands be		nor to	to he	00m-	
sidered as Rent Reserved				0011-	77
DIPPLICATES OF ASSESSMENT:	•	••	•••	•	•••
Two Copies to be signed by Distr	rict C	nmmis	Rioners	5.co	
a Copy delivered to Collector					40
Collectors', may be inspected free					41
Durns:		•			
Of 1s. and of 6d. on offices					34
	••	••	••	••	•
EASEMENT: Distinguished from Hereditament					21
See Case No. 9	•	••	••		175
	••	••	••	••	110
Ecclesiastical Benefices:					
Exoneration of	· · .	٠٠.	•••	••	33
Consideration money for exoneration	ion, h	ow rai	șed.	••	92
ECCLESIASTICAL AND CORPORATE BODIES	:				
Purchasing Land Tax by Sales	••	••	••	••	64
Land Tax redeemed by	••	••	••	••	75
EIGHTEEN YEARS' PURCHASE:					
Land Tax redeemed by	••	••	••	••	89
England and Wales:					
Quota upon, in 1798	••	••	••		.9

		IN	DEX.				2	07
Entroiz Of	MENT: Deeds of Sale	••		••	••	••	Pa	1 <b>ge</b> 79
	Pound Rate: nota on each Pari	sh to be	raised	by an	••		12,	23
W	ization of Quota ithin a Division & Case No. 2	.s:			••	••	••	24 129
•	IN CONTRACT:	nland R	evenue	may a	mend		••	82
	s of Roman Cati be registered wi		of the	Peace			••	56
	College: xempt from Land	l Tax	••	••	••	••	••	29
Evide	NCE OF REDEMPT	ON	••	••	••	••	72,	81
Exces	s : f Land Tax abov	e the Qı	10 <b>ta</b> , 86	e Surpl	us La	ınd Tax	: <b>.</b>	
Ехона О	NGE: f lands—liability footnote	of Lan	d Tax	not tr	ansfe	•		25
Exchi	QUEE, COURT OF:	-see Q	ieen's	Bench I	Divisi	on.		
	SIVE CONTROL:		g Land	l Tax v	rested	in Dis	trict	
_	Commissioners	3	••	••	••	••	••	36
EXECT	ross: intitled to Land T to register Pro						ed,"	67
Exem	•	, <b>, , , , , , , , , , , , , , , , , , </b>	B	200200		I LUL	••	٠,
A	llotments belong: llotments to Lan				••	••	••	32 ib.
	mbassadors or Fo	_			••	••	••	26
	harities, modern,			••	••	••	••	141
	olleges, Halls, an	-		••	••	••	••	29
	ines payable to I				. • •	••	••	21
	Iospital lands, quality trict Commissi		on, to		termi		Dis-	31

.

-

Exampt (continued):			Page
Lands exempted by the Act, such exem	ption	shall co	m-
tinue, see Case No. 6			162
Lands, tithes, &c., not rated at the ti	ime of	exone	ra-
tion			32, 33
Mains and Pipes of Water Works	••		21
New Rent charge, see Extraordinary Titl			
			28
EXONERATED PROPERTY: see Case No. 1		••	126
Exoneration:			•
Of Small Livings and Charitable Institut	tions		3335
Of Lands in Optional Contract, charged			'ax
"redeemed but not exonerated"			72, 73
Period of, to be endorsed on Contracts			109
Period of, the Quarter day immediately p			
of payment of the consideration mon			
<u>- · ·                                   </u>			
EXTINGUISHMENT OF QUOTA:		10 00	40.50
By application of Surplus Land Tax	••		, 49, 50
Pound rate increased for, see Case No. 7	••	••	166
Extra-Ordinary Tithe:—see Case No. 8	••	••	172
Extra-Parochial Places:			
Appointment of Collectors for			39
Union of	••	••	45
FAIRS:			
Assessment on, how recoverable			48
•	••	••	10
FEE FARM RENTS:			
Chargeable to Land Tax	••	• •	23
Deductions for, in other cases	••	••	27, 28
Purchasers of Land Tax entitled to	••	••	77, 78
Right to purchase Land Tax as a Fee I	'arm F	Cent wi	
$\mathbf{drawn}  \dots  \dots  \dots$		••	78
Allotments under Inclosure Acts ma	y be	$\mathbf{made}$	
lieu of	••	••	78, 79
Fixes:			
Paid to the Lord of a Manor not charges	ble	••	21
May be imposed by Commissioners or			ınd
Collectors			39, 48

Fisheries:				Pa	ge
To be assessed		• •	• •	••	22
Profits of, may be sold to satisfy are	rears o	f Land	Tax	••	48
Foreign Ministers:					
Assessments on Houses occupied b	y ther	n to b	paid	by	
Landlords	• •	••	• •	••	26
FORMS:					
Declarations to redeem Land Tax			10	9—1	14
Certificates of Clerks to Commission			amou	nt	
intended to be redeemed			11	51	20
FRAUDULENT CONTRACTS:  Land Tax to be revised					83
Land lax to be revised	•	••	••	••	00
Funds:					
Low price of, in 1798			••	• •	84
FURNACES:					
To be assessed					22
TO De assessed	•	••	••	••	22
GIFT OF LAND TAX:					
Redeemed or purchased for the pu	$\mathbf{r}\mathbf{p}$ ose	of au	gmenti	ng	
any Living, valid	• •	••	••	••	79
GLEBE LAND:					
May be sold by an Incumbent to	raise	money	for pu	ır-	
chase of Assignment of Land	Tax 1	edeem	ed on t	he	
Living		• •	••		74
May be sold by an Incumbent to rei					
such Assignment has been pur		out of			
Moneys	••	••	••	••	ib.
Great Seal:					
Commissioners appointed under, for	r regu	alating	and a	<b>p-</b>	
proving Sales			••	•••	64
Appointment of Commissioners und	er, to	exoner	te Sm	all	
Livings	••	••	••	33,	91
GUARDIAN OF TENANT IN TAIL:					
Redeeming Land Tax					70
Redeeming Land 181	• •	••	••	••	40
HALIFAX, MARQUIS OF:					
On the unequal distribution of Lan	d Tax	••	••	••	17

HEREDITAMENTS:					ŀ	age.
To be assessed	••	• •	••	••	••	23
Defined—see Case No. 9	••	••	••	••	• •	175
HIGH COURT:—see Queen's Ber	ch Div	ision.				
"Hodgson v. Pearson": Case	No. 4	• •	••	••	••	150
HOSPITALS:						
Exemption of				••	29	, 30
Lands belonging to, charg	eable, i	if asse	ssed in	1693		31
Tenants of houses or lands	belong	ging to	, wher	e liable	·	ib.
Questions as to exemptio	n of, t	to be	determ	ned by	the	
District Commissioner	s	••	••	••		ib.
All, not exempt, see Case I	No. 3	••	• •	••		141
When exempt, such exe	mption	is im	pressed	upon	the	
land itself, see Case N		••	•••	••		162
Illegal Distress:						
By Collector		••	••	• •		46
INCLOSURE ACTS:						
Allotments under, may b	ham a	e in l	ien of	Tee T	'arm	
Rents payable in resp						79
Allotments under, made in						
Tax has been redeeme	_				<i></i>	32
	<b>u, 200</b>		••	••	••	-
INCOMBENT:	·				3	
Redeeming Land Tax on h						
entitled to a Rent-C	_			unt to		<b></b>
Land Tax redeemed	• •		•••			74
The next succeeding, may			•			
signment of Land Tax				_		ib.
May sell Glebe land to pu			_			
may reimburse himse	•					
Assignment has been	_		out o	f his		
Moneys	<b>-::</b> .	• •	<b>- ··</b>		••	ib.
Of one of two Consolidated	_					
of has been redeemed	•		•		to a	
Rent-Charge out of the						77
Deceased, who had redee				of, ent	itled	
to recover interest, &c	• ••	••	••	••	••	70
Inequality:						
Of pound rate in Assessme		• •	• •	••		2, 13
Of Quotas, see Unequal di	stribut	ion of	Land 7	Cax in	1798	

INLAND REVENUE:—see Commissioners	of.		•	P	age
INSPECTOR OF TAXES:  A Person who has held the office of	of cana	not ant	98 <b>8</b> (	lom-	
missioner	•		••	••	38
Instalments:					
Consideration money paid by, in					
demption of Land Tax	••	••	110,	112—	114
Institutions:					
Charitable	••	••	••	• •	33
INSTRUCTIONS:					
To the Public redeeming Land Ta	x			107—	120
To Clerks to Commissioners, their					
redeeming Land Tax	••		••	107—	125
INTEREST:					
Sums payable by way of, in res	mect o	f Lan	l Tax	re-	
deemed	-	••			74
Recoverable against a succeeding			from	the	
time of coming into possession					74
Recoverable as Rent Reserved	••	••	••	••	75
Reversioners who have redeemed	, entit	led the	ereto 1	until	
		••			
On Instalment Contracts	••	••	••	110—	114
IRON MILLS AND IRON WORKS:					
To be assessed	••	••	• •	••	22
JOINT TENANTS:					
Having redeemed their portion of	f Tax	, their	share	s on	
partition to be exonerated	••	••			32
JUDGMENTS AND DIGESTS OF CASES		••		126—	194
_	••	••	••		
JUSTICES OF THE PEACE:					
May act as Commissioners of Land	1 Tax	••	••	• •	37
LANCASTER, DUCHY OF:					
Land Tax redeemed on lands be	longin	g to, t	to be	con-	
sidered as Rent Reserved	••	••	••	••	77
LANDLORD:					
To allow deduction of Land Tax f			••	••	25
Redeeming, Tenant to pay Land			••	••	75
Of Foreign Ministers' Houses, to	pay La	ınd Ta	x.,	26,	27

LAL	DLOED AND TENANT:					Pa.	ge
	Contracts between, respecting	ng the	paym	ent of 1	Land '	Γax,	
	not affected by Statute		••	• •	• •	••	25
	Deduction from Rent		••		••	••	ib.
	As to construction of Cove	nants	respec	cting p	aymer	at of	
	Land Tax	• •	••			25—	27
Lan	D Tax :						
	Origin and history of	••	••	••	••	••	1
	Mr. Pitt, on	• •	••	••	1	13, 59,	84
	Sir Robert Walpole, on	••	• •	••	••	14,	15
	Sir Geo. Sinclair, on	••	••	••	• •		13
	Mr. Pulteney, on	••	••	••	••	••	15
	Mr. Thornton, on	••	• •	••	• •	• •	16
	Mr. C. Townsend, on	••	••	••	••		17
	Marquis of Halifax, on	• •	• •	••			ib.
	Mr. Adam Smith, on		••	••	••	••	18
	Acts, principal						20
	Description of Property dec	lared	liable	to asse	ssmer	ıt b <b>y</b>	
	Statute	• •		••	••	••	21
	Redemption of (First Act)	• •			••		11
	Estimated Amount of, mad-			e in 179	8		60
	Quota, Subsidies, &c., in E	nglan	d and	Wales		4, 9,	97
	,, ,, ,, s	cotlan	ıd	••		4, 10,	
	Amount Annually redeemed			••	••	87,	88
	Redemption of, generally			••		••	59
	Redeemed by Bishops			••		••	75
	,, Incumbents				••		74
	,, Tenant for Li	ife		••			75
	,, Ecclesiastical	Corp	oration	18			ib.
	,, Strangers		••			61, 64,	78
	,, Tenant at Ra					•••	78
	,, a person pos	sessin	gal	esser E	state	than	
	that of I		_				80
	,, Landlord, Re	nt Re	served		••		75
	,, on lands subject	to a l	Fee Fa	rm Rer	ıt		77
	,, Crown Lands						ib.
	,, lands belong	ing to	o the	Duchie	s of	Lan-	
	caster an						ib.
	Year of Assessment			••	••	••	49
	G 11 - 41						40

LAND TAX (continued):	Page
Donable 1st Tonnows in overer ween	40 00
The state of antiday's along the	
To 1 months on manufacture of	WO 00
70.7	
26 21 22	
7 1 1 1 1 A A A	•
~ · · · · · · · · · · · · · · · · · · ·	13, 23, 49
	49, 50
A Parliamentary Tax On Personal Estate excepted from Redemption	25
	25
Redemption of, by Transfer of Stock not advisa	
On Scotland	96
On Small Livings, how Consideration Money w	
Instructions to Persons redeeming	107—120
Instructions to Clerks to Commissioners	107—125
Gift of Land Tax redeemed or purchased	79
Double, on Roman Catholic Estates	51
On Personal Estate, Pensions and Offices	10
Revision of, when redeemed by fraud	83
LAND TAX COMMISSIONERS (CASES):  "For Hundred of Ivychurch, Kent, Reg. a	·.'': Case
No. 10	192
"For Morpeth Ward, Reg. v.": Case No. 5	159
"For Tower Division, Reg. v.": Case No. 2	129
LAND TAX "REDREMED BUT NOT EXONERATED":	
Optional Clause	66
Lands to be continued in Assessment	66, 68, 81
Payable by the Crown to persons entitled there	
Assignments to be registered	ib.
Probate to be registered	ib.
Letters of Administration to be registered	ib.
To be deemed Personal Estate	68
As to exoneration of the Property	71, 72
Assignment of, not liable to Stamp Duty	67
Receiving Officer paying, indemnified notwit	
any defect of title in the person receiving is	t 68

213

Lands:	P	age
To be assessed as a general rule where they do lie, ar		
not elsewhere, but see Case No. 5 24, 3		159
Under the Value of 20s., belonging to poor persons no	ot	
to be assessed		31
<b>-</b> '	• •	47
Dispute as to place in which they are legally liable to b	ю	
assessed	•	42
To be fully described in Contract for redemption of Lan		
	7,	108
Charitable, exempted under the Act to continue exemp	•	
	• :	
Exchanged, liability on transfer of	•	25
Lease:		
Silent as to Land Tax		ib.
Lessee:		
At Rack-Rent having purchased Land Tax payable b	v	
Landlord, may deduct it from Rent	•	78
To pay Land Tax, as Rent Reserved, when redeemed by		
		75
Redeeming, became Owner of a Specific Charge on th		••
premises		69
	-	
LETTERS OF ADMINISTRATION:		67
To be registered by Registrar of Land Tax	•	07
LIMITED ESTATE:		
Redemptioner possessing a, redeeming Land Tax to b		
entitled to a Rent-Charge 6	9	.71
LIVINGS:		
Small, or under the value of 150l. a year 33, 34, 9		92
Tithes, &c. belonging to, on which Land Tax has been re-		
deemed, exempt, although not rated at the time o	f	
exemption		32
Land Tax redeemed on, next Incumbent may treat for	r	
an Assignment of		74
Lands belonging to one of two Consolidated Livings, i		
sold to redeem Land Tax, creates a Rent-Charge or		
the other, should the Livings be severed		77
Augmented by Gifts of Land Tax redeemed or purchased	i	79
"LORD COLOHESTER AND OTHERS v. KEWNEY": Case No. 3	. 1	41

LORDS OF MANORS:				I	ege?
Not to be assessed for Fines	••	••	••	••	21
See Case No. 4	• •	••			150
LOEDS OF THE TREASURY : see Commi	ssioner	s of T	reasury		
Magna Charta	••	••	••	••	2
MANDAMUS:					
	. ••				<b>2</b> 3
Refused. Commissioners' decis					
be final, see Case No. 10	••	••	••	••	192
Manors:					
Chargeable to Land Tax	••	• •	••	• •	21
Lords of, not to be assessed for H	ines	• •	••	••	ib.
Exonerated, waste lands not asse	ssable,	see Car	se No. 4	Ł	150
MARKETS:					
Profits of, may be seized and sold	d in de	afanlt e	of navr	nent	
of Land Tax charged thereon					48
		••	••	••	
MERGE IN ESTATE:					
Land Tax redeemed to	• •	••	••	61	, 74
MEEGEE CLAUSE:					
In operation between 20th Aug	ust 188	53, <b>a</b> nd	29th	July	
1856, during which period	no Rei	nt-Cha	rge wa	s to	
issue out of any redemption			• • •		74
"Met. Ry. Co. v. Fowler": Case	No. 9	••	••		175
MILLS, IRON:					
Chargeable to Land Tax		••			22
•		• •	• •	•••	
MINES:					
Chargeable to Land Tax See Lord Esher's remarks—Case	 NT- 0	••	••		ib.
See Lord Esher's remarks—Case	No. 9	••	••	••	178
Mines of Minerals of Metals:					
Belonging to any Lands sold b					
Land Tax, not to pass by a	ny Co	nveyar	ce of a	such	
Lands	••	••	• •	••	75
Mode and Terms:					
	••		:	107	125
• .,					
Modern Charities:—see Case No. 3	• •	••	• •	• •	141

MORTMAIN, STATUTES OF:			ıge
Gifts of Land Tax redeemed or purchased,	valid,	not-	
withstanding those Acts	••	••	79
NAME Acrs:—see Commissioners, Appointment of	••	36,	38
New Rent-Charge:—see Extra-Ordinary Tithe.			
Notice:			
Church Door, as to time and place of Appeal	• •	••	41
To be given to Assessors by Parties intending t			ib.
Of times and places for hearing Appeals to b	e give	n b <b>y</b>	
Commissioners to Collectors	• •	• •	ib.
OATH:			
By Commissioners		37,	38
Of allegiance by Papists	••	••	51
OCCUPIER:			
To pay Land Tax and deduct out of Rent		••	25
Assessment for Land Tax to be made on	••	••	27
OFFICE COPY:			
Of Registry of Contract, made evidence of exo	neratio	on of	
Property	••	72,	81
OFFICES, PENSIONS, AND PERSONAL ESTATE:			
Land Tax on, excepted from redemption			61
Amount of Land Tax on, in 1798	•••	••	10
Land Tax on Personal Estate abolished	•••	•••	ib.
Land Tax on Offices and Pensions abolished	••	•••	34
OPTIONAL CLAUSE:			
In Contracts establishing Land Tax "redeem	and base	+ not	
exonerated"	iou bu	и пос	66
Its operation in Contracts for redemption of	Lond	Tor	v
_ • • •		66,	67
May be rescinded and the property exonerated	••		72
Power to insert in Contract withdrawn (1802)		••	73
ORDNANCE MAP:			
Description of Property by numbers on, in	redem		
cases	••	1	.08
Oncerns on Turn Tur			1

OVERRATED:				P	age
Lands, Appeal lies to Land Ta	ax Commi	ssioners	, <i>see</i> Cs	<b>150</b>	
No. 7	••	••	••	••	166
Owner:					
To pay Land Tax on hou	1808 000TT	rd bair	Forei	om	
nei .	-		I OI OI	8.	26
Ministers	••	••	••	••	
Oxford University:					
Exemption of, from Land Tax					29
	- ••		••	•	
PAPIST:					
Double Land Tax on					51
Parishes:					
Area, or limit of, cannot be ve	ried	••			44
Answerable for full amount of	Quota				40
Wholly exonerated		••	••		13
Detached from Counties to w	hich they	belong	, may	be	
annexed to Counties in w	hich situa	te		44	, 45
May be transferred from on	e Divisio	n to ar	other,	be	
United or Dis-united, but	no altera	tion is t	o be ma	ade	
in Quotas or Areas	••	••	• •	••	ib.
_					
PARKS:					
To be assessed	••	••	••	••	22
PARLIAMENTARY TAX:					
Land Tax considered as a					25
Land 1ax considered as a	••	••	••	••	20
Partition:—see Coparceners					32
TABILITON.— 600 Coparometr	••	••	••	••	-
Patron of Living:					
Redeeming Land Tax out of h	is private	estate e	ntitled	to	
a Rent-Charge equal in					
redeemed			••		74
May assign to present Incum		he bene		he	•-
Living				•••	ib.
	• • •	••		••	
Patronage:					
Right of, not to pass by any	Conveyan	ce of L	ands s	old	
by Bishops, &c. to redeen	Land Ta	х	••	••	<b>7</b> 5
в.			L		

Penalties:	;	Pa	go
For acting as a Commissioner without qualif	ying		38
On Assessors and Collectors			50
On Commissioner refusing to withdraw from	n heari	ng a	
Case in which he is interested			48
On any person for detaining Public Books	and Pa		ib.
after receiving notice to give them up On Collectors, how recoverable			50. 50
On Collectors, how recoverable	 lete Con		88
	ious Com	u.acc	-
PENSIONS:			
Land Tax on	••		10
,, excepted from redemption	••		61 0.5
,, repealed	••	34,	35
Period of Exoneration:	:		
Of Property on which the Land Tax has be	en redee	med	91
PERSONAL E STATE:			
Land T ix on, in 1693			7
in 1709	•••		10
,, repealed	••	10,	
,, excepted from redemption	••		61
,, "redeemed but not exonerated," do			68
Prit, Mr.:			
On the unequal distribution of Land Tax			13
On the Scheme generally	••	11,	
	••	,	
Plans:	41	T. and	
Of Property proposed to be exonerated, a means of identification	ге ше	1	ሰጹ
	••	•• -	••
POOR PERSONS:	- # 00-		
Whose Lands are not of the full yearly value to be assessed	01 208.,	, not	31
	••	••	
POOR RATE VALUATION:	a m	_	0.4
Generally adopted as the basis for assessing L	and Tax	ĸ .,	24
POOR WIDOWS AND CHILDREN OF CLEEGYMEN:			
Governors of the Charity of, exempt	**	• •	29
Pound Rate:			
From the reign of William and Mary to 1798		6	19
Quotas on Parishes to be raised by an equal		12,	23
Unequal, on Parishes	• •		13
Maximum and minimum, charged in England	and W	ales,	
1893-4. see foot note			ib.

INDEX,	:	219
PREFERENCE: Benefit of (1798-9)		Page 63
PRESENTATION TO LIVING:—see Patronage.		
Paice of Funds: In 1798, and until 1800	••	84
PRIVY COUNCIL:  Members of, appointed Commissioners to conduct S by Corporations		64
Powers of, now vested in Lords (see Commissioners)	of	04
Treasury	•••	ib.
PROBLET:		
To be registered. See Land Tax "redeemed but	not	
exonerated."		67
PROCESS:  For recovery of Consideration money when in default	••	83
PROFITS: Of Markets. See Markets.		
Progress of Redemption.		84
PROPERTY:		
Chargeable and Exempt		21
Of Colleges, &c., exempt	••	29
To be fully described in Contracts	••	107
Plans of, in Redemption cases	••	108
PROTESTANTS: Relieved of Double Land Tax on coming into possess	ion	
of Roman Catholic Estates	••	<b>52</b>
PULTENEY, Mr.: On the unequal distribution of Land Tax		15
PURCHASE OF REDEMPTION OF LAND TAX:	••	
Explanation of 78, 79,	80	81
Original Plan for	•	84
On Lands subject to a Fee Farm Rent		
As a Fee Farm Rent	••.	78
Right of, as a Fee Farm Rent withdrawn	••	ib.
QUALIFICATION:		
To act as a Commissioner	36,	37

Quarries:						P	'agı
To be assessed	••	••	••	••	••	••	22
QUASHED:							
Assessments once sig	ned,	cannot	be	••			41
QUEEN'S BENCH DIVISION		Trott (	Norrom:	,			
Appeal may be made					n in w	hich	
Lands are legal							42
Appeal may be made							
Double Land Ta							58
May compel Assignn	 nent of	Land	Tax r	edeeme	d in cer		
Cases		•••		••			69
	••	••	•••				
QUIT RENTS:  To be assessed							21
To be assessed	••	••	••	••	••	••	21
QUORUM:							
Two Commissioners	to for	n a	• •	••	• •	••	38
QUOTA:							
Apportioning of							7
76.7	••	••	•••	•••	•••	•••	65
To be raised annuall		••	•••		•••	••	ib.
	, 	••				2, 21,	
On Parishes, cannot			• • • • • • • • • • • • • • • • • • • •	•••		, 13,	
Payment of			••	••	••	, , ,	40
Parish, answerable f			••	••	••		47
Deficiency in, to be r							ib.
Wholly redeemed, A							40
Excess above (see Sur	rplus l	Land T	ax)				49
					9, 23	, 24,	30
As it stood in 1798 On England and Wa	les in	1798				4, 9,	97
On Scotland in 1798	••		••		4, 10	, 96-	-99
Equalization of, with				Case N	o. 223	3, 24,	129
Redemption of, by	the	applica	tion o	f Sur	plus I	and	
Tax		***	• •	••	13	, 23,	49
Dispute as to, see Cas	se No.	7.	• •		• •		
Unequal, see Unequa	l Dist	ributio	n of th				
RACK-RENT:		• •					
Tenants at, purchasis	ng La	nd Taz					78
Tenants at, or under	_						
•					63,		121

RAILWAY COMPANY:					P	age
Lands belonging to a tens	ant for l	i <b>fe</b> , pu	rchase	l by	••	74
RAILWAY SYSTEM:						
Increase in redemption	••	••	••	••	••	87
RAILWAY TUNNELS:—see Case	No. 9	••	••	••	••	175
RATE:—see Pound Rate and F	oor Rat	е.				
Re-assessment:						
To be made for any defici	encies	••	••	••	••	47
To be made to defray Cos	sts in de	fending	g Colle	ctor	••	48
RECEIVING OFFICER OF INLANI	REVEN	UE:				
Indemnified in paying	Land T	ax "r	edeem	ed but	not	
exonerated ''	••	••	••	••	••	68
RECOVERY:						
Of Consideration Money	when in	defau	lt			83
Of Rent-Charges	••	•. •	• •	••	••	75
REDEEMED LAND TAX:						
Subsequent Assessment	thereof	may	be tre	ated as	8.	
nullity :—see Case No			••	••	••	126
REDEMPTION:						
Of Land Tax, 1798, Act	for	••	••	••	••	11
Of Land Tax generally	••	• •	• •	• •	••	59
Or purchase, explanation	of	••	••	• •	79,	80
Progress of	••	••	• •	••	• •	84
By 18 years' purchase	••	••	••	••	88,	89
Minus the Additional Ter	ath	• •	••	••	••	89
17½ per cent. less than re	quired b	y 42 G	leo. 3,	c. 116	••	90
Terms of, increased by $\frac{1}{1}$	th	••	••	••	••	91
Consideration for, how ea			••	• •	••	60
Tables for calculating Co	nsiderat	ion in	Stock o	or Mone	y	93,
				•	•	95
Of Land Tax on Small Li						
Instructions to intending					107,	
Instructions to Clerks to						
Table of Amount of, in e	ach year	from.	1798 t	o 1892.	. 87	, 88

ELEGISTRATION:	TRE	ŗΨ
Of Documents establishing title to Land Tax "redec	emed	
but not exonerated ''	67, 6	38
Of Contract for the redemption of Land Tax	10	)8
REGISTRY:		
Certified Copy of, evidence of exoneration	72, 8	31
Remainder:		
Person in, as to freeing Estate from Rent-Charge	7	74
Persons entitled in, not liable for more than one ye	ear's	
Interest of Mortgage or Rent-Charge created	d to	
effect the redemption of Land Tax 7	1, 74, 7	7
RENT-CHARGE:		
Property subject to payment of	2	7
In lieu of Tithes, assessable	2	2
Owners of, liable to Assessment		3
Arising out of a redemption by a Person possessing		
limited interest in Property exonerated 69, 7		0
Incumbent redeeming Land Tax on his Living out or	f his	
own Moneys entitled to	7	4
Patron of Living do. do. do.	i	b.
On Living (formerly consolidated) being severed	7	7
Grant of, to redeem Land Tax	il	ь.
New, substituted for the Old Extraordinary Tithe	, see	
Case No. 8	17	2
RENT RESERVED:		
Land Tax redeemed in certain cases considered as	7	5
Reversioners:		
Who have redeemed Land Tax entitled to a yearly	sum	
equal thereto until Estate vests in them	7	4
May demand Assignment of Land Tax redeemed	69, 7	4
Revision:		
Of Land Tax, when redeemed by fraudulent Contract	ե 8	3
ROMAN CATHOLICS:		
Double Land Tax on	51—5	8
Relief from Double Land Tax on	ib	
Estates to be registered with Clerk of the Peace	ib	٠.

						P	age
STATUTES, PRINCIPAL	••	••	••	••	••	••	20
STOCK:							
Not advisable to re	deem b	y a ta	ansfer	of, wl	hen ]	Land	
Tax is small							121
Table of, showing a	mount	to be	transfe	rred for	r rede	emp-	
tion							93
Conversion of the	£3 per	cent.	Bank	Annu	ities	into	
£ $2\frac{3}{4}$ per cent. Co	nsolida	ted St	ock	••	••	••	91
Strangers:							
Redeeming Land Ta	x	••	••	••	(	61, <b>64</b> ,	, 78
Subsidy:							
Imposition of	••		• •			2	-4
SURPLUS LAND TAX:							
Application of				• •		13, 49	50
Power of District							
No. 7	••	••	••	••	••	23,	166
SURVEYOR OF TAXES:							
A Person who has he	eld offic	e of. c	annot s	ct as a	Com	mis-	
sioner	••	••		••	••	••	38
Tables:							
Land Tax on Person	al Esta	te in 1	832		••	••	11
" redeemed							88
Small Livings and							
and 1822, num	ber of	, and	amoun	t of I	and	Tax	
remitted	••	••		• •		••	92
Stock to be transferr	ed to re	edeem.	Land T	Cax.			93
Money to be paid to	redeen	n Lan	d Tax	at vari	ous p	rices	
of Stock	••	••	••	••	••	••	95
TENANT:							
Paying Land Tax, n	nay ded	luot it	from B	lent			25
Paying Land Tax,							
cover it				••			iò.
Contracts between I	andlor			t as to	pay	ment	
of Taxes not to	be affe	cted		••			ib.
Differences between	Landlo	rd and	l Tenan	it as to	dedu	ction	
of Land Tax to	be settl	led by	Commi	issioner	8		ib.
Of Hospital Lands t	o be as	sessed					31

Tenant (continued): Page	Э
At Rack-Rent, or holding under the Crown, not entitled	
to redeem Land Tax 63, 107, 121	l
At Rack-Rent, purchasing Land Tax 78	
In tail, Guardians of, redeeming Land Tax 70	)
TENANT FOR LIFE:	
Redeeming Land Tax on land afterwards taken by a	
Railway Company, to reimburse himself 74	Ļ
See Limited Estate	
Tenements:	
To be assessed 21	L
TENTHS AND FIFTHENTHS 3, 4	Ł
THORNTON, Mr.:	
On the unequal distribution of Land Tax 16	3
on one another continuous or make the fit of the	
Timbre:	
Cannot be distrained upon, what trees so considered 42	7
TITHE COMMUTATION ACT:	
Every Rent-Charge payable in lieu of Tithes assessable 22	2
TITHE, EXTRAORDINARY:—see Case No. 8 172	Š
Tithes:	
To be assessed	
Rent-Charge in lieu of, assessable ib	•
May be seized and sold by Collector in default of payment	
of Land Tax charged thereon 48	3
Not rated at the time of redemption, discharged from	
Liability 35	2
Sold for redeeming Land Tax on other hereditaments, are	
free from assessment, though not rated at the time	
of sale 33	3
Belonging to Livings the Tax whereof had been redeemed,	
not liable 32	6
	6
Belonging to Small Livings exonerated or to be exone-	
Belonging to Small Livings exonerated or to be exone-	

Title:					]	Page
Of persons to Land Tax '	' redee:	med bu	t not ez	conera	ted,"	
to be registered	,••	••	••	••	••	67
Tolls:						
To be assessed						22
May be seized and sold by				of nav	ment	
of Land Tax charged					шощ	48
or 130110 1 1011 01111 800			••	••	••	10
"Tower Commissioners, R. v	.": Ca	se No.	2	••	••	129
Townsend, Mr. C.:						
On the unequal distributi	on of I	and T	ах <sub>.</sub>	••	••	17
TRANSFER OF PARISHES:						
By Land Tax Commission	aers	••	•• :	••	••	44
TRANSFER OF STOCK:			-		•	
To redeem Land Tax, see	Table		••			93
Not advisable when Land	Tax t	o be re	deemed	is sm	all in	
amount	••	••	••	• •	82,	121
TREASURY, LORDS OF:—see Con TRESPASS:—see Case No. 1	nmissio	ners of	Treas	ıry.		126
I EESPASS:—800 Case NO. 1	••	••	••	. ••	••	120
TRUSTEE:				`		
Crown acting as, for pay		f Land	l Tax	"rede	$\mathbf{emed}$	
but not exonerated"	••	••	••	••	••	67
May redeem Land Tax	••	••	••	••	••	63
Tunnels:						
Of Metropolitan Railway	, 286668	able as	an He	reditar	nent,	
see Case No. 9	· · · ·	••	••	••	23,	175
TURNPIKES ON PUBLIC ROADS:						
Tolls on, not chargeable	<b></b>	••	••	••	••	31
Underlessees:						
Of Crown lands	••	••	••	••	••	77
Underwoods:	••	••				
To be assessed						22

INDEX.	2	227
Unequal Distribution of Land Tax in 1798:	P	age
Mr. Pitt on the	11	, ī3
Sir Robert Walpole on the		, 15
Sir George Sinclair on the		13
Mr. Pulteney on the	••	15
Mr. Thornton on the .	•	16
Mr. C. Townsend on the	••	17
Marquis of Halifax on the	••	ið.
Mr. Adam Smith on the	••	18
	••	129
See Case No. 2	••	149
UNEQUAL POUND RATE:		
On Parishes		13
See a constitution 1.00 1.00 1.00	••	10
Union of Parishes:		
By Land Tax Commissioners		45
Dy Land I da Commissioners	••	10
Universities:	•	
Exemption of		29
manufaction of the second of t	. ••	20
Unlawful District:	•	
By Collector		46
Dy contour !! !! !! !!	• ••	
UNOCCUPIED LANDS:		
Land Tax on, how to be recovered		47
Dalle Tax on, now to be 1000 veree	••	
Usage:		
Long, as to assessments, not to be disturbed, see	Cases	
Nos. 2 and 5	129,	159
:	,	
VALUATION:		
In the reign of William and Mary		6
Poor Rate generally taken as the basis for Assessment		24
Vote:		
Purchasers of Land Tax entitled to, for Members of	Par-	
liament	••	78
Tar.		
WALES:		
England and Wales, Quota on, 1798	••	9
Warner Con December		
WALPOLE, SIR ROBERT:		4 è
As to Land Tax being unjust and unequal	14,	, 15

•

WARRANT:		•	P	age
Collector's, cannot itself be impeached				168
Collector to receive, from Commissioners	·			40
To Collector to break open	••	••	••	47
WARRENS: To be assessed				22
	••	••	••	22
WASTE LANDS:				
Formerly, where now assessable	••	••	••	24
Of exonerated Manor, held to be not as	888888	ble, <i>see</i>		
No. 4	••	••	••	150
WATER WORKS: Mains and Pipes exempt	••	. • •	••	21
Westminster:				
College of, exempt	••	••	••,	29
WINDSOR:				
College of, exempt	••	••	••	ib.
Winton:				
College of, exempt	••	••,	••	ib.
Woods:	•			
To be assessed	••	••		22
As to mode of levying thereon	•••	••	46,	47
Writ:				
Scire facias for recovery of Consideration	Mone	y in def	ault	83
YEAR OF ASSESSMENT	••	••	••	49
YEARLY ASSESSMENTS:				
To be made				23

THE END.

#### À

## SELECTION

#### \<del>-</del>

# RECENT LAW WORKS

PUBLISHED BY

# STEVENS & SONS, LIMITED,

119 & 120, CHANCERY LANE, LONDON, W.C.2.

\*\*\* A Discount of **20 per cent.** off all new Books (except where marked *net*) for Cash with Order. (Carriage or Postage extra.)

Complete Catalogue of New and Secondhand Law Works post free.

#### A B C GUIDE TO THE PRACTICE OF THE SUPREME COURT, 1924. Net, 8s. 6d.

- ADMIRALTY.—Roscoe's Admiralty Practice. Fourth Edition. (Incorporating Williams and Bruce's Admiralty Practice.) 1920. Net, 2l. 2s.
- ADVOCACY.—Harris's Hints on Advocacy.—Fifteenth Edition. By J. H. Warrs, Barrister-at-Law. 1920.
- AGRICULTURAL HOLDINGS.—Spencer's Agricultural Holding Acts, 1908 to 1921.—Seventh Edition.

(In the press.)

See also Small Holdings.

### ANNUAL COUNTY COURTS PRACTICE, 1923.

Net, 2l. 10s.

"It admirably fulfils the essential requisites of a practice book."—Law Times.

### ANNUAL DIGEST, 1922.

Net, 1l.

ANNUAL PRACTICE, 1924. Net, 2l. 10s. "A book which every practising English lawyer must have."

Law Quarterly Review.

ANNUAL STATUTES, 1922.

Net, 16s.

ARBITRATION.—Russell on the Power and Duty of an Arbitrator.—Eleventh Edition. By A. A. Hudson K.C. (In the pre-

- AVERAGE.—Lowndes' Law of General Average.— English and Foreign. Sixth Edition. By E. L. DE HART and G. R. RUDOLF. 1922. 2l. 2s.
  - "Every decision of importance bearing on the subject has been considered, and in this respect, as in all others, the treatise has been brought up to date. Its continued authority is not in doubt."—
    Law Quarterly Review.
- BANKING.—Hart's Law of Banking.—Third Edition. 1914.
- BANKRUPTCY.—Lawrance's Deeds of Arrangement, with Precedents.—Ninth Edition. 1922. Net, 10s. "Concise, practical, and reliable."—Law Times.
  - Williams' Law and Practice in Bankruptcy.— Twelfth Edition. By W. N. STABLE. 1921. Net, 21: 10s.
- BASTARDY.—Lyons' Bastardy Orders.—The Law and Procedure relating to Bastardy Orders. By A. M. Lyons, Barrister-at-Law. 1923.

  Net, 5s.
- BILLS OF EXCHANGE.—Chalmers' Bills of Exchange. Eighth Edition. 1919. 11. 10s.
- BUILDING SOCIETIES.—Wurtzburg's Law relating to Building Societies.—Fifth Edition. 1920. 20s.
- CARRIERS.—Carver's Treatise on the Law relating to the Carriage of Goods by Sea.—Sixth Edition. By James S. Henderson. 1918. Net, 2l. 2s. "The standard modern book on carriage by sea."—Low Quarterly.
- CHANCERY.—Daniell's Chancery Practice.—Eighth Edition. By Sydney E. Williams and F. Guthrie-Smith. 2 vols. 1914. 51.5s.
  - Daniell's Chancery Forms and Precedents.—Sixth Edition. By R. White, F. E. W. Nichols and H. G. Garrett. 1914. 2l. 10s.
    - "The two volumes on Practice and the one volume of Forms constitute together a most valuable work on the practice of the Chancery Division."—Law Quarterly Review.
- CIVIL ACTIONS.—Roscoe's Digest of the Law of Evidence on the Trial of Civil Actions.—Nineteenth Edition. By James S. Henderson. 2 vols. 1922.

  Net, 31. 38.

A thin paper edition in one volume may be had at the same price.

"A vast and closely packed storehouse of information."—Law Journal.

COLLISIONS AT SEA.—Marsden's Collisions at Sea.—
Eighth Edition. By A. D. Gibb.

"Indispensable for Admiralty practitioners."—Law Journal.

Roscoe's Measure of Damages in Action of Maritime Collisions.—Second Edition. 1920. Net, 12s. 6d.

	1
COMPANY LAW.—Palmer's Company Law. A Practional Handbook for Lawyers and Business Men. Elever Edition. By Alfred F. Topham. 1921. Net, 2 Palmer's Company Precedents.  Part I. General Forms. Twelfth Edition. 19	nth 58.
	3 <i>l</i> . 20.
Net, 1l. 1 Palmer's Private Companies.—Thirty-fourth Editi 1922. Net, 1s.	on.
Palmer's Shareholders', Directors', and Volunt Liquidators' Legal Companion.—Thirty-first Edit 1921. Net,	ary ion. 48.
Sutcliffe's Company Law. 1920. Net, 12s. COMPENSATION.—Cripps' Treatise on the Princip	
of the Law of Compensation.—Sixth Edition.  AUBREY T. LAWRENCE and R. STAFFORD CRIPPS. 19  Net, 3	By 22.
CONFLICT OF LAWS.—Dicey's Digest of the Law England with reference to the Conflict of Law Third Edition. By A. V. DICEY, K.C., and A. BERI DALE KEITH: 1922. Net, 21.	of s.— RIE- . 58.
CONSTITUTIONAL LAW.—Ridges' Constitutional I of England.—Third Edition. By Sydney E. Willia 1922. Net,	MS.
CONTRACTS.—Addison's Law of Contracts.—Elever Edition. By W. E. Gordon and J. RITCHIE. 19	nth
Leake's Principles of the Law of Contracts.—Seve Edition. By A. E. RANDALL. 1921. Net, 21.  "A full and reliable guide to the principles of the English of Contract."—Law Journal.	nth 10s.
Pollock's Principles of Contract.—Ninth Edit 1921. Net, 21.	ion.
"There is no book on the English Law of Contract which is lucidly and yet so comprehensively as this."—Law Jour	leals
Roberts' Principles of the Law of Contract.— E. H. GOODMAN ROBERTS, Barrister-at-Law. 1923.	-By
CRIMINAL LAW.—Archbold's Pleading, Evidence	and
Practice in Criminal Cases. With the Statutes, I cedents of Indictments, &c.—Twenty-sixth Edition. H. D. ROOME and R. E. Ross. 1922. Net, 2l. 12s. "The book stands alone for its combination of all the min of pleading. evidence and practice, with the fullest statement statutory and case law."—Law Journal.	By 6d. nutia
Roscoe's Digest of the Law of Evidence and Practice in Criminal Cases.—Fifteenth Edition.	the
H. Cohen. 1921., 38	

:

- CRIMINAL LAW—continued.
  - Russell on Crimes.—Eighth Edition. By R. E. Ross and G. B. McClure, Barristers-at-Law. 2 vols. Net, 51.
  - Warburton's Leading Cases in Criminal Law.—Fifth Edition. By the late H. WARBURTON and CLAUDE H. GRUNDY. 1921. 1*l*.
- DANGEROUS THINGS.—Charlesworth's Liability for Dangerous Things.—By John Charlesworth, LL.D. 1922. Net, 10s.
  - This work deals with the Extent and Nature of the Lizbility-Animals — Fire — Water — Explosives, Electricity and Poison —
    Dangers on or near the Highway—Dangerous Buildings and Chattels.
- DEATH DUTIES.-Harman's Finance Act, 1894, and subsequent legislation as to the Death Duties.— Fourth Edition. 1921. 10s. 6d. Webster-Brown's Finance Acts.—(Estate and other Death Duties.) Fourth Edition. 1921. Net, 1l. 5s.
- DICTIONARY.—Pocket Law Lexicon.—Fifth Edition. 1921.  $Net_10s$ .
  - By E. A. Wharton's Law Lexicon.—Twelfth Edition. WURTZBURG. 1916. 2l. 10s. "The most useful of legal works."-Law Journal.
- DIGEST.—Mews' Digest to End of 1920.—With Annual Supplementary Volumes. Full Particulars on application.
- DIVORCE.-Browne and Watts' Law and Practice in Divorce, &c.; incorporating Oakley's Divorce Practice.—Ninth Edition. 1921. Net, 2l. 2s. Net, 21. 28.
- EASEMENTS.—Goddard's Treatise on the Law of Easements.—Eighth Edition. 1921. Net, 11. 10s. "Nowhere has the subject been treated so exhaustively."—Low-
- EDUCATION.—Aggs and Knowles' Handbook on Education.—1922. Net, 6s. 6d.
- ELECTIONS.—Rogers' Parliamentary Elections and Petitions.—Nineteenth Edition. With Addenda, March, 1922. Net, 1l. 58.
- ELECTRICITY.—Knowles' Law relating to Electricity. -In two Parts. Part I., Electric Lighting and Power; Part II., Electric Traction. 1911. The Parts may be had separately, each 11.5s. net.
- EQUITY.—Seton's Forms of Judgments and Orders. With Practical Notes. Seventh Edition. 3 vols. 1912. 61. "A most valuable and indispensable work."—Law Journal.
  - Smith's Practical Exposition of the Principles of Equity.—Fifth Edition. 1914.

- ESTOPPEL.—Everest and Strode's Law of Estoppel.—
  Third Edition. 1923.

  Net, 11.
- EXAMINATION, SOLICITORS' (INTERMEDIATE).—
  Hammond's Guide to Stephen's Commentaries.
  1923.
  Net, 10s.
- EXCESS PROFITS.—Sutcliffe's Excess Profits Duty.
  With Supplement bringing the Work down to 1920. 10s.
  \*\* The Supplement may be had separately, Net, 2s. 6d.
- EXECUTORS.—Walker's Law relating to Executors and Administrators.—Fifth Edition. 1920. Net, 11. 58.
  - Williams' Law of Executors and Administrators.—
    Eleventh Edition. 2 vols. 1921. Net, 51.

    "This book—the standard work on its subject—is a storehouse of

"This book—the standard work on its subject—is a storehouse of learning on every point of administration law."—Law Journal.

- FORMS.—Bowstead's Collection of Forms and Precedents other than Conveyancing, Company, Local Government and Practice Forms.—2 vols. 1914. Net, 2l. 10s.
  - Chitty's Forms of Civil Proceedings in the King's Bench Division.—Fourteenth Edition. 1912. 2l. 10s.

    "An indispensable adjunct to every working lawyer's library."
    - "An indispensable adjunct to every working lawyer's library."

      —Law Journal.
  - Daniell's Chancery Forms and Precedents.—Sixth Edition. 1914. 2l. 10s.

    "The standard work on Chancery Procedure."—Low Quarterly
- HIRE-PURCHASE SYSTEM.—Russell's Practical Manual of Hire-Trade Law.—Fifth Edition. With Supple-
- ment to June, 1920. Net, 10s. 6d.

  INCOME TAX.—Aggs' Income Tax, 1918. Net, 12s. 6d.
- Konstam on the Law of Income Tax.—Second Edition. (In the press.)
- INSURANCE.—Arnould's Law of Marine Insurance and Average.—Tenth Edition. 2 vols. 1921. Net, 51.

  REPORTS OF CASES ON INSURANCE. See Workmen's Compensation.
- INTERNATIONAL LAW.—Wheaton's Elements of International Law.—Fifth English Edition. 1916. 21.
  "Wheaton stands too high for criticism."—Low Times.
- INVESTIGATION OF TITLE.—Jackson and Gosset's Investigation of Title.—Fourth Edition. By Thoron Gosset. 1922.

- LANDLORD AND TENANT.—Sophian's Increase of Rent and Mortgage Interest Restrictions Acts.— By T. J. Sophian, Barrister at Law. 1923. Net, 7s. 6d.
  - Woodfall's Law of Landlord and Tenant.—Twenty-first Edition. (In the press.)
    - "Woodfall is really indispensable to the practising lawyer, of whatever degree he may be."—Law Journal.
- LAW LIST, 1923.

Net, 12s. 6d.

- LEADING CASES.—Caporn's Selected Cases on the Law of Contracts.—Third Edition. 1920. 25s.
  - Randall's Selection of Leading Cases in Equity.—
    1912. 10s. 6d.
    - "One of the foremost, if not the best, of Equity case books."—Law Students' Journal.
  - Shirley's Selection of Leading Cases in the Common Law.—Ninth Edition. By R. Watson. 1913. 18s.
  - Warburton's Leading Cases in Criminal Law.—Fifth Edition. 1921.
- LEAGUE OF NATIONS.—Pollock on the League of Nations.—By Rt. Hon. Sir Frederick Pollock, Bt., K.C. Second Edition. 1922. Net, 16s.
- LEGAL HISTORY.—Deans' Student's Legal History.—
  Fourth Edition. 1921. 15s.
  "There is no better short introduction to the study of the law."
  - "There is no better short introduction to the study of the law."
    —Low Notes.
- LIBEL AND SLANDER.—Ball's Law of Libel as affecting Newspapers and Journalists.—1912.

  "A well-arranged and well-executed work."—Law Journal.
  - Odgers' Digest of the Law of Libel and Slander.—
    Fifth Edition. 1911.

    "The best modern book on the law of libel."—Daily News.
- LUNACY.—Heywood and Massey's Lunacy Practice.— Fifth Edition. 1920. 1l. 10s.
- MENTAL DEFICIENCY.—Davey's Law relating to the Mentally Defective.—Second Edition. 1914. 10s.
  "This admirably arranged and handy book."—Law Journal.
- MORTGAGE.—Coote's Treatise on the Law of Mortgages.—Eighth Edition. 2 vols. 1912. Net, 3l. 3s.
- NOTARY,—Brooke's Office and Practice of a Notary.
  —Seventh Edition. By J. Cranstoun. 1913. 1l. 10s.
- OBLIGATIONS.—Walton on the Egyptian Law of Obligations. A Comparative Study, with special reference to the French and the English Law. 2 Vols. Second Edition. 1923.

  Net, 2l. 10s.

- PARTNERSHIP.—Pollock's Digest of the Law of Partnership.—Eleventh Edition. 1920. 15s.
- PATENTS.—Thompson's Hand-book of Patent Law of all Countries.—Eighteenth Edition. 1920. Net, 6s.

  \*\*\* British Portion only. Net, 1s.
- PEACE TREATY.—Picciotto and Wort's Treaty of Peace with Germany: Clauses affecting Mercantile Law. 1919.

  Net, 6s.
- PLEADING.—Bullen and Leake's Precedents of Pleadings.—Seventh Edition. 1915. 21. 10s.
  "The standard work on modern pleading."—Law Journal.
  - Odgers' Principles of Pleading and Practice.—Eighth Edition (Revised Reprint). 1922. 15s:
- POOR LAW SETTLEMENT.—Davey's Poor Law Settlement and Removal.—Second Edition. 1913. 15.
- POWERS.—Farwell's Concise Treatise on Powers.— Third Edition. 1916. 11. 158.
- PRIVATE BILLS.—Landers' Procedure and Practice relating to Private Bills in Parliament. 1919.
  11. 12s.
- PRIZE CASES.—Cases Decided in the Prize Court and on Appeal to the Privy Council.

Each Part Net, 7s. 6d.

- PROBATE, DIVORCE AND ADMIRALTY.—Westby-Nunn's Principles of Probate, Divorce and Admiralty for Articled Clerks: 1922. Net, 7s. 6d.
- PROPERTY.—Marcy and Formoy's Short Epitome of, and Guide to, the Law of Property Act, 1922.—

  1923. Net, 8s. 6d.
  - Strahan's General View of the Law of Property.— Sixth Edition. 1919. 168.
- RAILWAYS.—Aggs and Knowles' Handbook on Railways. 1922. Net, 5s.
  - Disney's Law of Carriage by Railway.—Sixth Edition. 1923. Net, 12s. 6d.
- RATING.—Davey's Law of Rating.—With Supplement bringing the Work down to June, 1919. Net, 1l. 10s.
  - \*\*\* The Supplement may be had separately, Net, 5s.
- RECEIVERS AND MANAGERS.—Riviere's Law relating to Receivers and Managers.—1912. 9s.
- ROMAN PRAETORS, THE.—By GILBERT T. SADLER, M.A., LL.B. 1922. Net, 5s.

- SHIPPING.—Temperley's Merchant Shipping Acts.— Third Edition. 1922. Net, 2l. 10s.
- SMALL HOLDINGS.—Spencer's Small Holdings and Allotments Acts.—Second Edition. 1920. 108.
- SPECIFIC PERFORMANCE.—Fry's Treatise on the Specific Performance of Contracts.—Sixth Edition. 1921. 21. 10s.
- STAMP LAWS.—Highmore's Stamp Laws.—With Notes of Decided Cases. Fourth Edition. 1921. Net, 15s.
- STATUTES.—Chitty's Statutes to End of 1920 (with Annual Supplementary Volumes).

  Net, 211.

  Full Particulars on application.
- TORTS.—Addison's Law of Torts.—Eighth Edition. By W. E. Gordon and W. H. Griffith. 1906. Net, 1l. 18s.

  Pollock's Law of Torts.—Twelfth Edition. By the Rt.
  Hon. Sir Fredk. Pollock, Bart., K.C. 1923. 1l. 12s.
- TRADE MARKS.—Sebastian's Law of Trade Mark Registration.—Second Edition. By L. B. Sebastian, F. E. Bray and J. Q. Henriques. 1922. Net, 15s.
- TRADE UNIONS.—Greenwood's Law: lating to Trade Unions.—1911. With Supplement, 1913. 10s.
- TRANSPORT.—Robertson's Ministry of Transport Act, 1919.—With an Introduction and Notes. 6s.
- TRUSTS AND TRUSTEES.—Godefroi on the Law of Trusts and Trustees.—Fourth Edition. 1915. 1l. 16s.
- WATER.—O'Hagan's Law of Water in Greater London.
  1920. Net, 1l.
- WILLS.—Theobald's Concise Treatise on the Law of Wills.—Seventh Edition. 1908. 21.
- WORKMEN'S COMPENSATION.—Knowles' Law relating to Compensation for Injuries to Workmen.—
  Third Edition. 1912.
  - Workmen's Compensation and Insurance Reports.

    Annual Subscription, 25s. net (post free).

appeal of Softwar black fand Solliery etc.

fand base notes for interviews may 16/28. annual value shed be "nes" asper Rate Book Pay to Dalopaying fand Jax by fandlard Also re improved value Deffences equestions of assessment Section 7)